

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

BRIAN HUSSEY,) C.A. No.: 1:21-CV-11868-AK
Plaintiff,)
)
v.)
)
CITY OF CAMBRIDGE and)
BRANVILLE BARD, individually and)
in his capacity as Commissioner of the)
Cambridge Police Department)
Defendant[s].)
)

**CONCISE STATEMENT OF MATERIAL FACTS IN CONNECTION WITH
DEFENDANTS' MOTION FOR SUMMARY JUDGMENT**

Pursuant to Local Rule 56.1, the City of Cambridge (hereinafter the "City") and Dr. Branville G. Bard, Jr. (hereinafter "Bard"), in his capacity as former Commissioner of the Cambridge Police Department (collectively, the "Defendants") hereby submit this Concise Statement of Material Facts in support of their Motion for Summary Judgment.

CONCISE STATEMENT OF MATERIAL FACTS¹

1. On February 25, 2021, the Plaintiff was paid by the Cambridge Police Department to attend online training. (See Ex. 1, Hussey Dep., p. 41.)
2. On February 25, 2021, the Plaintiff posted, “[t]his is what it’s come to...’honoring’ a career criminal, a thief and druggie...the future of this country is bleak at best” and attached a news article about a House of Representatives police reform bill being named

¹ The facts stated herein are accepted as true by the Defendants for the purposes of their Motion for Summary Judgment, **only**, with respect to the claims asserted against them by the Plaintiff. The Defendants reserve all rights with respect to their defenses to the Plaintiff's claims and their right to dispute his allegations at trial.

in honor of George Floyd. (See Ex.1, Hussey Dep., pp. 41-42 and Ex. 4, Hussey Dep. Ex. 1.)

3. The term “druggie” is a derogatory term referring to individuals with substance abuse issues. For a police officer to use that term “it dehumanizes, and it in some ways demonizes. It makes it easier to not to care about the outcomes for an individual. And historically when you dehumanize an individual, then it’s easier to perpetrate atrocities against them. So it’s inappropriate for a police officer to be using that term.” (See Ex. 3, Bard Dep. pp. 40 and 47.)
4. The Plaintiff drove with his wife and two children, aged seven months and five years old, to the New England Aquarium (the “Aquarium”) later in the morning on February 25, 2021. (See Ex. 1, Hussey Dep., p. 43.)
5. The Aquarium was very crowded with children and the Plaintiff and his wife had his seven-month-old daughter in a stroller. (See Ex. 1, Hussey Dep. pp. 43-44.)
6. Despite having two small children at the very crowded Aquarium, the Plaintiff took the time to delete his post regarding George Floyd, either while walking to the Aquarium from his car or shortly after arriving at the Aquarium. (See Ex. 1, Hussey Dep. p. 44.)
7. The Plaintiff claims he deleted the post because it did not generate much conversation, despite the fact that two people commented on the post within 52 minutes of the Plaintiff posting it on his Facebook page. (See Ex. 1, Hussey Dep. pp. 44-45.)
8. On April 1, 2021, the Plaintiff estimated that he had 674 Facebook friends. (See Ex. 1, Hussey Dep. p. 36 and Ex. 4, Hussey Dep. Ex. 1, p. 6.)

9. The Plaintiff was able to list 535 of his Facebook friends in 2023. (See Ex. 1 Hussey Dep. p. 34 and Ex. 4, Hussey Dep. Ex. 1.)
10. The Plaintiff estimated that 91 of his 535 Facebook friends are either retired or active members of the Cambridge Police Department and only 30 of his 535 Facebook friends may be unaware of the Plaintiff's employment with the Cambridge Police Department. (See Ex. 1, Hussey Dep. pp. 38-39 and Ex. 2, Hussey Dep. Ex. 2.)
11. The Plaintiff joined the Cambridge Police Department in 1998. (See Ex. 1, Hussey Dep. pp. 8-9.)
12. For the first decade of his career as a Cambridge Police Officer, the Plaintiff worked as a patrol officer, mostly in sectors one, two, and three, which encompass lower Cambridge. (See Ex. 1, Hussey Dep. pp. 12-13.)
13. Once the Plaintiff had enough seniority to start getting assigned to his sector of choice, the Plaintiff chose to work in sector two, which encompassed Central Square and the housing developments of Washington Elms and Newtowne Court. (See Ex. 1, Hussey Dep. pp. 13-14.)
14. In June 2009, the Plaintiff applied to and joined the Special Investigations Unit ("SIU") where he investigated drug and vice crimes. (See Ex. 1, Hussey Dep. p. 15.)
15. For the ten years the Plaintiff was assigned to the SIU, he took part in hundreds of drug crime investigations. (See Ex. 1, Hussey Dep. p. 16.)
16. During the Plaintiff's time in the SIU, he worked with confidential informants and otherwise spoke with drug users throughout the City of Cambridge. (See Ex. 1, Hussey Dep. pp. 16-19.)

17. In order to secure the cooperation of confidential informants and other drug users who provided information to the Cambridge Police Department, the Plaintiff “had to reassure them that...we were going to protect them, mothering would happen to them, we would do whatever we could to help them.” (See Ex. 1, Hussey Dep. p. 20.)
18. The Plaintiff spent a lot of his time in the SIU convincing drug users to trust him. (See Ex. 1, Hussey Dep. p. 21.)
19. In early March 2021, Bard met via Zoom with former City Manager Louis DePasquale, Richard Harding from the NAACP, former Mayor Ken Reeves, and Mo Barbosa about the Plaintiff’s February 25, 2021 Facebook post, including the Plaintiff’s disparaging comments about George Floyd and individuals with substance abuse disorders. (See Ex. 3, Bard Dep. pp. 26-27.)
20. Former Mayor Reeves expressed his concern that the Plaintiff’s post called into question the ability of the Cambridge Police Department to serve in a biased-free manner and it “runs afoul of what we purport to embody.” (See Ex. 3, Bard Dep. pp. 29 and 49.)
21. After Bard’s meeting with former City Manager DePasquale and the members of the public complaining about Hussey’s disparaging and biased Facebook post, Bard obtained a copy of the Plaintiff’s February 25, 2021 Facebook post and forwarded it to the Professional Standards Unit (“PSU”) for investigation. (See Ex. 3, Bard Dep. pp. 26-27.)
22. PSU conducted an investigation and found that the Plaintiff violated Cambridge Police Department Rules and Regulations Chapter 2, Section III, Paragraph B, which prohibits “discourtesy, rudeness, or insolence to any member of the public” and Cambridge Police Department Policies and Procedures Policy 230, Section V, Paragraph A, Part 1 which

orders the Plaintiff to “be courteous and act professionally at all times.” (See Ex. 2, Hussey Dep. Ex. 2 pp. 10-11.)

23. The City Manager is the appointing authority for the City of Cambridge and has final authority over discipline of all City of Cambridge employees, including police officers. (See Ex. 3, Bard Dep. pp. 8-9.)
24. Bard was concerned that the Plaintiff, with his February 25, 2021 Facebook post, disparaged George Floyd and was insensitive to individuals with substance use issues, would cause irreparable harm to the Cambridge Police Department’s reputation. (See Ex. 3, Bard Dep. pp. 30, 32.)
25. The Cambridge Police Department disciplined Hussey for his February 25, 2021 Facebook post because “it had negative connotations and it tore at the fabric of trust that we spent a long time building in the community. Folks viewed the Cambridge Police Department as one who favors prevention, intervention, and diversion over more serious or more punitive methods traditionally associated with the criminal justice system. You know, we pride ourselves on the fact that we believe that individuals are better served through a social justice approach than through your traditional criminal justice approaches. And when you have that approach, that means that you’re often working hand in hand with individuals who have, you know, fallen in life and are working towards better outcomes. Some of those individuals have substance use issues.” (See Ex. 3, Bard Dep. p. 41.)
26. Bard viewed the post as “disparaging, it was dehumanizing, and that it, particularly in the context of the national climate, tore at the fabric of the trust that we spent a long time building. You know, the old saying trust takes a lifetime to build and just a moment to

tear down. Well, any individual associated with the Cambridge Police Department could in a moment tear down, you know, that trust we've spent a long time building with community..." (See Ex. 3, Bard Dep. pp. 41-42.)

27. Bard, with his thirty years of police experience, believed it was important for the Cambridge Police Department to have the public's trust because that is "the only way we can function properly and do our job. We have to be seen as trustworthy and legitimate and bias free." (See Ex. 3, Bard Dep. p. 46.)

DEFENDANTS,
CITY OF CAMBRIDGE
DR. BRANVILLE G. BARD, JR.
By their attorney,

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Dated: June 8, 2023

CERTIFICATE OF SERVICE

I, Kate M. Kleimola, hereby certify that on June 8, 2023, I served a true copy of the above document upon Plaintiff's counsel, Benjamin Weber, Esq., via ECF:

/s/ Kate M. Kleimola
Assistant City Solicitor

EXHIBIT 1

VOLUME: I
PAGES: 1-99
EXHIBITS: 1-4

UNITED STATES DISTRICT COURT
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C.A. NO. 1:21-CV-11868-AK

BRIAN HUSSEY,)
Plaintiff,)
)
v.)
)
CITY OF CAMBRIDGE and)
BRANVILLE BARD,)
in his capacity as)
Commissioner of the)
Cambridge Police Department,)
Defendants.)

DEPOSITION OF BRIAN HUSSEY, a witness

called on behalf of the Defendants, pursuant to the applicable provisions of the Massachusetts Rules of Civil Procedure, before Margaret G. Oliver, a Professional Shorthand Reporter and Notary Public in and for the Commonwealth of Massachusetts, at the offices of City of Cambridge Law Department, City Hall, 795 Massachusetts Avenue, Cambridge, Massachusetts, on Thursday, April 6, 2023, commencing at 10:04 a.m.

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1 I N D E X

2 Testimony of:

Page

3 BRIAN HUSSEY

4 By MS. KLEIMOLA

4

5 E X H I B I T S

6 No. Description Page

7 1 List of Facebook Friends 33

8 2 Final PSU Report 35

9 3 Facebook Post 47

10 4 Screen Shots of Text Messages 50

11 (Exhibits retained by Attorney Kleimola.)

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P R O C E E D I N G S

BRIAN HUSSEY, a witness called for examination by counsel for the Defendants, having been satisfactorily identified by the production of his driver's license, being first sworn by the Notary Public, was examined and testified as follows:

MS. KLEIMOLA: I'm assuming stipulate that all objections will be reserved, except as to form?

MR. WEBER: Yes.

MS. KLEIMOLA: Okay. Do you want to review and sign?

MR. WEBER: Yes.

MS. KLEIMOLA: All right. Anything else before we get started?

MR. WEBER: No.

THE WITNESS: No.

DIRECT EXAMINATION

BY MS. KLEIMOLA:

Q. Can you introduce yourself for the record and spell your last name.

A. Brian Hussey, H-U-S-S-E-Y.

Q. And at any time if you don't understand any of the questions I ask you, if you can just please

1 let me know. And I'm happy to rephrase it.

2 A. Okay.

3 Q. Can you tell us your date of birth.

4 A. February 3rd, 1976.

5 Q. And where do you live?

6 A. Peabody, Massachusetts.

7 Q. Who do you live with?

8 A. My wife, my two children, my dog.

9 Q. What's your wife's name?

10 A. Lindsay.

11 Q. And how old is she?

12 A. Thirty-nine.

13 Q. And you said you have two children?

14 A. Yes.

15 Q. What are their names and ages?

16 A. Declan is seven and Devin is two.

17 Q. How long have you lived in Peabody?

18 A. About 12 years.

19 Q. Have you ever been deposed before?

20 A. Yes.

21 Q. How many times?

22 A. Not many. Maybe it's one or two.

23 Q. And in what context were you deposed,
24 meaning were you being sued or were you suing

1 somebody else?

2 A. No. I was a witness to a -- it was a
3 lawsuit against the City.

4 Q. Do you remember when that was?

5 A. It was a few -- just a few years ago.
6 Maybe five years ago.

7 Q. Were you a party to that suit?

8 A. I was just a witness.

9 Q. All right. For that case was that the only
10 time you've been deposed before?

11 A. The only one I can think of off the top of
12 my head.

13 Q. Have you ever been sued before?

14 A. Yes.

15 Q. And was that in relation to your work as a
16 Cambridge police officer?

17 A. Yes.

18 Q. And when were you sued?

19 A. I'm trying to guess. It was probably 15 or
20 so years ago, maybe a little bit longer.

21 Q. Was it just the one time, or has it been
22 more than one time that you --

23 A. I believe it was just the once.

24 Q. Do you recall who sued you, who the

1 plaintiff was?

2 A. Max Strahan.

3 Q. Do you remember how it was resolved?

4 A. I believe it was settled with the City, I
5 believe.

6 Q. And were you deposed as part of that
7 lawsuit?

8 A. I don't think so.

9 Q. Are you today on any medications or drugs
10 that would affect your ability to testify truthfully
11 and accurately?

12 A. No.

13 Q. Did you prepare for today's deposition at
14 all?

15 A. I did.

16 Q. And other than any conversations that you
17 had with Counsel, how did you prepare?

18 A. Just reviewed my -- my paperwork, my notes.

19 Q. Do you know what paperwork and what notes
20 you reviewed?

21 A. I reviewed the interrogatories that I
22 submitted. And I reviewed my response to the
23 initial investigation, the -- the response that I
24 wrote for Professional Standards.

1 Q. Your P650?

2 A. Yes.

3 Q. Okay. Did you -- other than Counsel, did
4 you speak with anyone else in preparation for today?

5 A. No. I mean, just general speaking about
6 today with my wife and a couple of friends, but
7 nothing to prepare myself.

8 Q. Were any of those conversations about what
9 your testimony would be?

10 A. No.

11 Q. Can you tell us about your education.

12 A. I graduated from Cambridge Rindge and Latin
13 in 1993. And I graduated from Suffolk University in
14 1997 with a bachelor of science degree.

15 Q. And what was your bachelor of science in?

16 A. Criminology and law.

17 Q. Have you had any other either on-the-job
18 training or any other education since you've joined
19 the Cambridge Police Department?

20 A. I've had extensive training with the
21 department.

22 Q. When did you join -- first join the
23 Cambridge Police Department?

24 A. I started the academy in June 1998. And I

1 hit the streets around October I think, '98.

2 Q. Before joining Cambridge Police Department,
3 did you hold any other full-time jobs?

4 A. I worked for the Middlesex Sheriff's
5 Office.

6 Q. In what capacity?

7 A. I was a corrections officer.

8 Q. And when did you work for the Middlesex
9 Sheriff's Office as a corrections officer?

10 A. From '97 to '98.

11 Q. When you joined the -- when you went to the
12 academy, which academy did you go to?

13 A. Lowell.

14 Q. And when did you graduate the academy?

15 A. 1998.

16 Q. Did you immediately start working as a
17 Cambridge police officer after your graduation?

18 A. I did.

19 Q. And you said that you've had extensive
20 training while you've been a Cambridge police
21 officer. Can you tell us what some of your training
22 has been.

23 A. Legal training, laws, first aid, CPR. I
24 was in the drug unit. I had extensive drug

1 training, things of that nature.

2 Q. When you were in the drug unit, what kind
3 of drug training did you receive?

4 A. I was drug -- I was trained by the DEA and
5 many other institutions. Drug investigations, drug
6 identification, drug packaging, distribution of
7 drugs, proper handling of informants, things of that
8 nature.

9 Q. Did you receive any training on addiction?

10 A. Yes.

11 Q. Could you tell us about that training.

12 A. It was just -- I don't know if it was
13 specifically addiction, but it was more the effects
14 of drugs on people.

15 Q. Could you tell us when you had that
16 training.

17 A. It was in the beginning when I first got in
18 the drug unit. So that would have been 2009, right
19 around then.

20 Q. When you first joined the Cambridge Police
21 Department in I think you said it was 1998, what was
22 your assignment?

23 A. The first year I was on probation, so I
24 kind of bounced around a little bit. I was in both

1 night and day traffic and night and day patrol.

2 Q. And can you explain to us the different
3 geographic areas that Cambridge Police divides the
4 City into, how that works.

5 A. For patrol purposes it's separated into the
6 five different sectors, one, two, three, four and
7 five.

8 Q. And how does an officer get assigned to a
9 particular sector?

10 A. It's based on seniority. And it's your
11 choice of where you want to work.

12 Q. How often are assignments made?

13 A. I believe it's on a six-month basis.

14 Q. So if you, say, got assigned to sector one,
15 you'd be assigned to that sector for six months?

16 A. Yes.

17 Q. And then depending on your seniority, you
18 get to pick what you want the next sector to be?

19 A. Yes.

20 Q. And what about the patrol shifts? Can you
21 tell us what the patrol shifts are.

22 A. For patrol they're seven a.m. to three
23 p.m., three p.m. to eleven p.m., and eleven p.m. to
24 seven a.m.

1 Q. And have those shifts existed since you
2 joined in 1998?

3 A. They were briefly a little different when I
4 started. They were just -- the hours moved back one
5 hour. They were four to 12, 12 to eight, eight to
6 four. But shortly after I got on, they just changed
7 by one hour. The times moved back one hour on the
8 shifts.

9 Q. And have the five sectors remained the same
10 since you joined?

11 A. Yes.

12 Q. How many -- for a typical day shift during
13 the week, how many patrol officers are assigned to
14 each sector? Is it always the same for every
15 sector, or does it vary by sectors?

16 A. It varies. Usually, more officers working
17 what we call the lower half of the City, which is
18 this side of Harvard Square, tend to be a few more
19 officers assigned to this area than the other half
20 of the City.

21 Q. Do you -- how long did you work as a patrol
22 officer after you first joined the Cambridge Police
23 Department?

24 A. About ten years. A little over ten years.

1 Q. And do you recall which sectors you worked
2 in in those ten years?

3 A. I kind of bounced around between all of
4 them because I had little seniority at that time.
5 So I kind of bounced around a lot. I'd say the
6 majority of the time though was spent on this side
7 of Harvard Square in sectors one, two and three
8 which are this side of Harvard Square.

9 Q. So sectors one, two and three encompass all
10 of what you call lower Cambridge?

11 A. Yes.

12 Q. Did you work in any particular sector more
13 often in those ten years?

14 A. I don't -- not that I can recall.

15 Q. When you did have some seniority and you
16 were able to start getting the sector of your
17 choice, was there any particular sector that you
18 tried to get?

19 A. I usually worked in sector two.

20 Q. And what's sector two?

21 A. It's kind of the area around Central
22 Square, Washington Elms, Newtowne Court up to the
23 high school, that area.

24 Q. And why did you want to work in sector two?

1 A. It was a busy area. I enjoyed keeping busy
2 at work. And kind of the area -- I grew up in East
3 Cambridge, so it's kind of close to East Cambridge.
4 And I knew the area very well.

5 Q. You mentioned Washington Elms. Can you
6 tell us what Washington Elms is.

7 A. It's a housing development bordered by
8 Harvard, Portland, Washington and Windsor Streets.

9 Q. Does Washington Elms housing development
10 still exist?

11 A. Yes.

12 Q. And what about Newtowne Court? What is
13 that?

14 A. It's a housing development right next to
15 Washington Elms bordered by all the same streets,
16 except Harvard Street is bordered by Main Street on
17 the other side.

18 Q. And does Newtowne Court still exist?

19 A. Yes.

20 Q. You said that you worked in patrol for
21 about ten years. What was your assignment after
22 patrol?

23 A. I was in the Special Investigations Unit.

24 Q. When did you join the Special

1 Investigations Unit?

2 A. June 2009.

3 Q. Did you have to -- was there an application
4 process, or did you have to do anything to join the
5 Special Investigations Unit?

6 A. Yeah. There is an application process.

7 Submit a resume, had an interview.

8 Q. Who did you interview with?

9 A. If I recall correctly, it was -- and I
10 don't know their ranks at the time. It was Steve
11 DeMarco and Bobby Gray I believe were the two.

12 Q. Did either one of them head up the SIU at
13 the time?

14 A. At the time it was Gray. Gray would have
15 been the sergeant at that time. So it was Sergeant
16 Gray.

17 Q. And what is the Special Investigations
18 Unit?

19 A. It's a plainclothes unit. Consisted of
20 about ten detectives, one sergeant. Primarily
21 investigated drug and vice crimes.

22 Q. When you were assigned to the Special
23 Investigations Unit, what was your rank?

24 A. I was a patrol officer.

1 Q. And so detective with the Cambridge police
2 is an assignment, not a rank?

3 A. Correct.

4 Q. You said "primarily drug and vice crimes."
5 Can you tell us what you mean by vice crimes.

6 A. Prostitution, human trafficking.

7 Q. Was there any -- would you say your time
8 was spent more with drug crimes, vice crimes, or was
9 it split equally?

10 A. Drug crimes.

11 Q. How much of your time would you say you
12 spent on drug crimes?

13 A. A good portion of it. I'd say probably 80
14 to 90 percent of it.

15 Q. How long were you in the SIU?

16 A. Ten years.

17 Q. In those ten years how many drug crimes --
18 how many drug crime investigations do you think you
19 took part in?

20 A. A couple hundred.

21 Q. When you were conducting investigations,
22 did you ever have to speak with informants?

23 A. Yes.

24 Q. Did you sign up confidential informants to

1 work with you?

2 A. Yes.

3 Q. And when I asked before about speaking with
4 informants, other than the confidential informants
5 that you signed up to work with you, did you speak
6 with other people just in general about different
7 investigations who were either witnesses or could
8 provide some information about an investigation?

9 A. Yes.

10 Q. When you worked with confidential
11 informants, how did you work with confidential
12 informants?

13 A. I mean, can you be a little more specific
14 or --

15 Q. Did you ever ask any confidential
16 informants to take any role in an investigation?

17 A. Yes.

18 Q. How did you -- how did confidential
19 informants take a role in investigation?

20 A. It varied. Sometimes they would just kind
21 of be our eyes and ears out on the street. And
22 other times we would ask them to actually
23 participate in controlled purchases of drugs.

24 Q. How many times do you think you had a

1 confidential informant participate in a controlled
2 purchase?

3 A. Over a hundred.

4 Q. And how many different confidential
5 informants do you think you used in controlled
6 purchases?

7 A. Ten maybe.

8 Q. The ten confidential informants that you
9 used for controlled purchases, what was the process
10 to have them become confidential informants?

11 A. We would do a thorough background check on
12 them, run a criminal history on them. They'd be
13 interviewed by myself and the sergeant in charge of
14 the unit.

15 Q. Was it always Sergeant Gray for the ten
16 years that you were there?

17 A. No. It was Sergeant Cherubino took over
18 for the -- Sergeant Gray.

19 Q. Do you recall when Sergeant Cherubino took
20 over for Sergeant Gray, then Sergeant Gray?

21 A. I don't recall what year it was, no.

22 Q. Before you got to the point where you were
23 running background checks and you were doing
24 interviews, did you approach the individual who

1 became a confidential informant, or did they
2 approach you to become a confidential informant?

3 A. It worked both ways.

4 Q. And the ten people that became confidential
5 -- about ten people that became confidential
6 informants for you, would you say it worked more one
7 way or the other?

8 A. I probably recruited more informants than
9 approached me and wanted to be an informant.

10 Q. How do you go about recruiting informants?

11 A. It varied. I mean, probably the most
12 common means that we used was we would have somebody
13 with a potential drug charge hanging over their
14 head, and we would offer them the opportunity to we
15 call it work off their case and become an informant
16 and in lieu of being charged with a crime or in
17 exchange for a lesser charge, things like that.

18 Q. Did recruiting a confidential informant
19 require to get that person to trust you?

20 A. Yes.

21 Q. When you were investigating drug crimes
22 other than the confidential informants, did you have
23 a need to speak with drug users throughout the City
24 to investigate drug crimes?

1 A. Yes.

2 Q. And what percentage of your cases do you
3 think you had to speak with drug users as part of
4 the investigation?

5 A. I don't know if I could put a percentage
6 number on it. But, I mean, a lot of time was spent
7 talking with users.

8 Q. Were there some people who were more
9 willing to speak with you than other people?

10 A. Yes.

11 Q. And how did you get those people to be more
12 willing to speak with you?

13 A. We just had to reassure them that, you
14 know, we were going to protect them, nothing would
15 happen to them, we would do whatever we could to
16 help them. The main thing with the informants was
17 they were afraid they were going to get hurt or, you
18 know, their names were going to appear in a report.

19 And we just had to constantly reassure them
20 that, you know, their name would never appear
21 anywhere and, you know, they would never get hurt.
22 We would never put them in a position to be hurt.
23 We would do everything in our power to ensure their
24 safety.

1 Q. So it sounds like you spent a lot of time
2 convincing the drug users that you spoke with to
3 trust you?

4 A. Yes.

5 Q. Have you -- other than drug and vice
6 crimes, have you investigated any other crimes as a
7 detective?

8 A. No.

9 Q. In vice investigations were they run the
10 same way as drug investigations, or were they
11 different?

12 A. They vary differently a little bit, yeah.

13 Q. Okay. Is it fair to say that when you're
14 investigating drug crimes, you're mostly trying to
15 prevent future drug crimes rather than investigating
16 a past event?

17 A. Yeah. I'd say that's a fair statement.

18 Q. And with vice crimes was it the same, or
19 were you more investigating past events like you
20 would if you were investigating a B&E or a robbery
21 of some sort?

22 A. Vice was kind of -- kind of both I would
23 say.

24 Q. Did you need informants like you did with

1 drug crimes to investigate vice crimes?

2 A. No.

3 Q. When you were investigating vice crimes,
4 did you have the same need to speak with or
5 interview drug users like you did with drug crimes?

6 A. No.

7 Q. You had said earlier that when you joined
8 SIU you had gotten quite a bit of training. Did
9 that include how to write search warrants?

10 A. Yes.

11 Q. How to execute search warrants?

12 A. Yes.

13 Q. Did it include how to handle informants?

14 A. Yes.

15 Q. What about handling evidence?

16 A. Yes.

17 Q. Any other topics that we haven't discussed
18 already that you can think of that you got training
19 on while you were in the SIU?

20 A. No. I think that pretty much covered
21 everything.

22 Q. You said that you were in the SIU for about
23 ten years.

24 A. Hmm-hmm.

1 Q. Why did you leave the SIU?

2 A. I wasn't -- it wasn't my choice to leave.
3 I was told I was no longer in the drug unit.

4 Q. Was that the same time that the Cambridge
5 Police disbanded SIU?

6 A. It lived on for a short period of time
7 after I left. But eventually, it was completely
8 disbanded.

9 Q. Okay. Do you know why you were reassigned
10 from the SIU? Were you told why you were reassigned
11 from the SIU?

12 A. I was told the unit was going in a
13 different direction.

14 Q. Do you recall what year that was?

15 A. 2020.

16 Q. Do you know how long the SIU existed for
17 after you left?

18 A. I can't say for certain. It was -- it was
19 months. But I can't put a -- I'm not sure exactly
20 when the final detective was finally moved out of
21 there.

22 Q. Were other detectives reassigned at the
23 same time you were?

24 A. Yes.

1 Q. Do you know how many of them were
2 reassigned at the same time you were?

3 A. Two.

4 Q. Do you remember who they were?

5 A. Detective Christopher Borum, B-O-R-U-M, and
6 Detective Sergeant Louis Cherubino.

7 Q. And is Detective Sergeant Cherubino's last
8 name C-H-E-R-U-B-I-N-O?

9 A. Yes.

10 Q. Did anyone take over for Detective Sergeant
11 Cherubino when he was reassigned?

12 A. I think Lieutenant Gray kind of took over
13 the -- what remained of the unit.

14 Q. And he had been in charge of the unit
15 before Sergeant Cherubino?

16 A. Yes.

17 Q. When you, Detective Borum and Sergeant
18 Cherubino got reassigned, do you remember how many
19 detectives were remaining in SIU?

20 A. Five maybe.

21 Q. And do you recall whether those five
22 remaining detectives got reassigned at the same
23 time, or did they get reassigned at different times?

24 A. I think they were different times.

1 Q. But the last detective got reassigned just
2 you think a few months after you got reassigned?

3 A. I think it was -- yeah. I can't put an
4 exact number on it, but I know it was at least a few
5 months.

6 Q. Where did -- what was your assignment after
7 -- in 2020 after you left SIU?

8 A. I went back to uniformed patrol.

9 Q. Did you have enough seniority to be able to
10 bid on the sector you wanted?

11 A. Yes.

12 Q. And which sector did you bid on?

13 A. Sector three I believe is where I went.

14 Q. And what does sector three encompass, what
15 geographic area?

16 A. We call it the coast. It's basically from
17 Mass. Ave. from Harvard Square down to the river,
18 everything in that area.

19 Q. And I meant to ask before. Do you also bid
20 on which shift you work, or is it just sectors?

21 A. Both.

22 Q. Okay. And taking your first ten years, did
23 you work any particular shift more than others?

24 A. My first ten years I was strictly on the

1 alternating shifts. I mean, I worked overnights and
2 early nights.

3 Q. And how does the alternating shift work?

4 A. Your first shift you go in, you work
5 eleven p.m. to seven a.m. Then you're off for the
6 next eight hours. Then you go back in three p.m. to
7 eleven p.m. You get the break in the middle. And
8 you do that again, eleven to seven, three to eleven,
9 and then you're off for two days.

10 Q. And in 2020 when you went back to patrol,
11 what shift did you work?

12 A. Days.

13 Q. And how long did you work in sector three
14 on days?

15 A. It was about a year or so probably.

16 Q. And do you recall what changed after that
17 year, whether it was the shift or the sector?

18 A. I went to night patrol.

19 Q. In the same sector?

20 A. Night patrol? Sorry. Did it again. Night
21 patrol I worked a car that handled everything on
22 this side of Harvard Square. So I basically covered
23 sectors one, two and three.

24 Q. Were you assigned to a car with another

1 officer, or were you in an R car?

2 A. I was by myself. It was called an alpha
3 car which just covered the whole lower half of the
4 City.

5 Q. Can you explain what an alpha car is.

6 A. It's just a one officer car. And you're
7 basically on just regular patrol. And you're
8 essentially a -- it's the supplement to the other
9 units that are out there. We don't really get
10 dispatched to many calls unless other units are tied
11 up. We pretty much have free roam of the whole end
12 of the City to do what we want to do.

13 Q. Is there an alpha car on every shift?

14 A. No.

15 Q. Is it any particular shifts, or is it
16 assigned specially?

17 A. It's specifically for the -- it's called
18 the fourth platoon which is the night patrol unit
19 that works four p.m. to midnight.

20 Q. And are most other patrol cars have one
21 officer or two officers assigned?

22 A. It's kind of split up. We have both two
23 officer cars and single officer cars.

24 Q. Are all single officer cars R cars?

1 A. Yes.

2 Q. Other than the alpha?

3 A. Yes.

4 Q. And does R car stand for the report car?

5 A. Yes.

6 Q. And does that officer -- is that officer
7 generally responsible for writing a report if they
8 get dispatched to an incident?

9 A. Yes.

10 Q. How long did you work the night shift?

11 A. Probably about a year as well. It was
12 until the end of August of 2022.

13 Q. Since you left SIU in 2020, have you worked
14 details or overtime?

15 A. Mainly overtime, but sprinkle in a few
16 details here and there.

17 Q. And why mainly overtime?

18 A. My overtime rate is higher than the detail
19 rate, so I get paid more. Plus, I just prefer to
20 work a patrol shift rather than stand in the middle
21 of the street flapping my arms on a detail.

22 Q. How often -- on average, how often a week
23 did you work an overtime shift?

24 A. It kind of varied. I mean, some weeks I

1 would do five and some weeks maybe none or one.

2 Q. And on the weeks you did five, were those
3 weeks that you weren't working otherwise, or did you
4 work them in addition to your regular scheduled
5 shifts?

6 A. Both. If there was a vacation week or a
7 week that I was off, I would work. But there were
8 many times that I would work doubles.

9 Q. And with Cambridge Police how does someone
10 get an overtime shift?

11 A. It's based on the availability of the shift
12 and, you know, if we're short staffed. And then it
13 goes -- there's a whole process between, you know,
14 which groups are working, which groups are off. And
15 then we have a list. And it goes alphabetically
16 through that list of where you are in each
17 particular group. So --

18 Q. So it's not by seniority?

19 A. No.

20 Q. When you were working overtime did you work
21 in any particular sector or on any particular shift
22 for overtime shifts?

23 A. It was mainly the day shift I would do
24 overtime because my shift was four to 12. So I

1 would say most of my overtime was on the day shift
2 before coming in to work my night shift. You know,
3 if it was a day off or something like that, I could
4 work. I'd basically work any time I could get it.

5 Q. In any particular sector that you did
6 overtime shifts?

7 A. I would just take whatever was available.

8 Q. And did you stay assigned to sector three
9 from when you left SIU in 2020 until you were
10 promoted in either August or September of 2022?

11 A. When I was on days for that I think it was
12 like about a year or so, I was primarily sector
13 three. And then when I went to nights, I went to
14 the alpha car which is --

15 Q. Oh, right. I apologize. You did say that.

16 When did you get promoted to sergeant?

17 A. August 2022.

18 Q. And in August of 2022 what shift did you
19 work once you got promoted?

20 A. Once I got promoted I went to the
21 alternating shift.

22 Q. Did the sectors work the same for sergeants
23 as they did for patrol officers?

24 A. No.

1 Q. How does it work for sergeants?

2 A. There are regularly four -- well, there are
3 four sergeant spots on -- in patrol. They're not
4 always filled. But some -- some of the sergeant
5 sectors encompass multiple patrol sectors. So there
6 might -- so car 17 is one of the sergeants down this
7 end of the City. And sectors one and two might call
8 under car 17.

9 It also depends how many sergeants are
10 working. If there are two sergeants working, one
11 has the entire east end of the City. One has the
12 entire north end of the City. If there are four
13 sergeants working, it kind of gets split up a little
14 bit smaller.

15 Q. So your particular assignment could change
16 from shift to shift?

17 A. Yes.

18 Q. Since you've become a sergeant, have you
19 worked in any particular area of the City, or does
20 it really just depend on shift by shift?

21 A. It's kind of shift by shift.

22 Q. Okay. Have you continued to work overtime
23 since you've become a sergeant?

24 A. Yes.

1 Q. And how often on average would you say you
2 work overtime?

3 A. I try to get in two or three overtime
4 shifts a week.

5 Q. As a sergeant can you work overtime shifts
6 only as a sergeant, or can you take patrol officer
7 shifts?

8 A. You can take patrol officer shifts.

9 Q. And when you work overtime since you've
10 become a sergeant, what kind of overtime have you
11 been working?

12 A. A lot of it's been on the day shift. And
13 it's kind of been throughout the City.

14 Q. And has it been as a patrol officer more
15 often or as a sergeant more often?

16 A. It's more often as a patrol shift.

17 Q. I want to talk to you about Facebook. Do
18 you know what Facebook is?

19 A. It's a social media platform I believe is
20 the term they use for it.

21 Q. And do you have a Facebook profile?

22 A. I do.

23 Q. How long have you had your Facebook
24 profile?

1 A. Boy. I'd say over 15 years.

2 Q. And what are your privacy settings on
3 Facebook?

4 A. I try to do my best to keep them as private
5 as I can. I don't know all the little tweaks and
6 things you can do to it to keep it as -- but I try
7 to keep everything as private as I can.

8 Q. Have you always tried to keep everything as
9 private as you can, or has that changed?

10 A. I think I've always tried to keep it that
11 way.

12 Q. Do you know how many friends you have on
13 Facebook?

14 A. It's somewhere over 600.

15 Q. And you were asked in discovery to provide
16 a list of your friends?

17 A. Yes.

18 Q. I'm going to show you --

19 MS. KLEIMOLA: If I could have this marked
20 as Exhibit 1.

21 (List of Facebook Friends marked as Exhibit
22 No. 1.)

23 Q. You can take the one that was just marked.
24 This has the Bates numbers 12, 13, 14, 15, 16, 17

1 and 18 from your discovery response.

2 A. Hmm-hmm.

3 Q. Is this a list of your Facebook friends?

4 A. Yes.

5 Q. Are these all of your Facebook friends?

6 A. Yes.

7 Q. And you said you have over 600 Facebook
8 friends?

9 A. Yes.

10 Q. There are only 535 friends who are listed
11 here. Do you know why there are some that are
12 missing?

13 A. I do not.

14 Q. You were also asked if you had deleted any
15 friends since your post on February 25th of 2021.

16 A. Yes.

17 Q. And you answered that you did not remember
18 deleting any friends; is that correct?

19 A. Yes.

20 Q. Is it that you don't remember whether or
21 not you deleted friends, or if you did delete
22 friends and you don't remember who they are?

23 A. I don't know whether or not I deleted any.

24 Q. Okay. Do you recall being interviewed by

1 Professional Standards Unit April 1st of 2021?

2 A. Yes.

3 Q. And were you interviewed in regard to your
4 Facebook post from February 25th of 2021?

5 A. Yes.

6 Q. Were you asked in that interview how many
7 friends you had?

8 A. I don't recall.

9 Q. I'm going to show you --

10 MS. KLEIMOLA: First of all, I'll have this
11 marked, the final PSU report from that
12 investigation.

13 (Final PSU Report marked as Exhibit No. 2.)

14 Q. And if I could ask you to turn to page --
15 at the top it's page 6 of 11. If you look at the
16 Bates stamps at the bottom of the page, it's six.

17 (Witness complies.)

18 A. Yeah.

19 Q. And if you see the paragraph -- it's the
20 third full paragraph down -- it starts with "He
21 estimated he has approximately 674 friends on
22 Facebook."

23 A. Yes.

24 Q. Do you recall being asked about that?

1 A. I do not.

2 Q. Okay. Do you recall telling PSU that you
3 had approximately 674 friends?

4 A. No.

5 Q. Do you know why there's a disparity between
6 you said today that you had over 600 friends and the
7 friends that were listed in Exhibit 1?

8 A. Well, there's a -- about a two-year
9 difference. So I -- I mean, other people could have
10 deleted me as a friend. When I compiled this list
11 on my Facebook home page, it lists friends. And it
12 says "Friends" - I think 663 is the number?

13 Q. 74. 674.

14 A. On this one.

15 (Indicates.)

16 Q. 535.

17 A. Right. But the one that I said was over
18 600. So that's the number that shows. It says
19 "Friends." And in parentheses it says whatever the
20 number is, 600 and whatever friends.

21 So that's why I estimated 600 as the
22 number. And this is -- I went through everybody on
23 the list, and this is what it came up with. I don't
24 know where the discrepancies are. I don't know how

1 Facebook calculates the numbers.

2 Q. How did you generate Exhibit 1?

3 A. I clicked on my friends list, and I
4 scrolled through everybody and wrote -- typed out
5 everybody's name.

6 Q. So you didn't download anything. You typed
7 out --

8 A. I typed this out myself.

9 Q. Okay. Could you have missed some friends
10 when you were typing everything out?

11 A. I don't think I would have missed that
12 many, no. I don't -- I don't want to speculate, so
13 I won't say what I think. Maybe -- I mean, some --
14 there are some people that have inactive pages. I
15 don't know if those register as friends in the line
16 where it says how many friends you have.

17 And then they don't show in the full list.
18 I don't know if maybe that could be it. But when I
19 click on my friends, these are all the names that
20 came up that I typed up.

21 Q. Did you leave anyone off deliberately?

22 A. No.

23 Q. Do you identify yourself as a Cambridge
24 police officer anywhere on your Facebook profile?

1 A. No.

2 Q. How many of your friends are from the
3 Cambridge Police Department?

4 A. I honestly can't put a number on it. But I
5 do have a lot of friends from the department.

6 Q. How many of your friends know that you're a
7 Cambridge police officer?

8 A. I would say a very good portion of them.

9 Q. Do you accept friend requests from people
10 you don't know personally?

11 A. No.

12 Q. Could you mark -- and I can give you my
13 pen, it's in black -- on Exhibit 1 how many of those
14 friends listed are with the Cambridge Police
15 Department.

16 A. Just on the page 1 or through the whole
17 thing?

18 Q. Through the whole thing.

19 MS. KLEIMOLA: And I can scan copies and
20 get you a copy.

21 MR. WEBER: Do you not know who's in the
22 Cambridge Police Department?

23 MS. KLEIMOLA: Well, not everyone uses
24 their real name as their profile name of Facebook.

1 A. Do you want active officers or just retired
2 officers, too, or --

3 Q. Everyone, retired or active.

4 A. Okay.

5 (Witness complies.)

6 (Pause.)

7 Q. So you just marked everyone who is either a
8 retired or active Cambridge police officer with a
9 check mark next to their name; is that correct?

10 A. Yes.

11 Q. And if you could also mark with an X beside
12 anyone's name who does not know or may not know that
13 you're a Cambridge police officer.

14 (Witness complies.)

15 (Pause.)

16 Thank you. Now that you've gone through
17 that list a couple of times, can you confirm that
18 you know everyone that you're Facebook friends with
19 in real life or personally?

20 A. No. Some of them I don't know in real
21 life. Well -- yeah. Some of them I don't know
22 personally in real life.

23 Q. How many would you say that is?

24 A. Just a handful. Most of them are

1 musicians.

2 Q. Okay. So you know who they are, but you
3 have not met them in real life?

4 A. A couple of them I've met. Some of them I
5 haven't.

6 Q. Okay. And do you know Ken Reeves, the
7 former mayor?

8 A. Not personally. I know who he is.

9 Q. You know who he is?

10 A. Yes.

11 Q. Are you Facebook friends with him?

12 A. No.

13 Q. Is it fair to say that you have either
14 lived in or worked in Cambridge for most, if not
15 your entire, adult life?

16 A. Yes.

17 Q. Turning to February 25th of 2021, the day
18 you posted about George Floyd on Facebook, do you
19 remember that day?

20 A. Yes.

21 Q. Do you remember what you did that day?

22 A. Yes.

23 Q. Can you tell us what you did that day.

24 A. Got up that morning. I specifically --

1 don't remember specifically like the first few
2 things of the day. But I know I went in, was on my
3 phone, read something on Facebook, made a post about
4 it. And then a short time later we took my children
5 to the Aquarium.

6 Q. Both children?

7 A. My wife and I took my our children to the
8 Aquarium.

9 Q. It was both children?

10 A. Yes.

11 Q. And so were you working that day?

12 A. I was not officially on duty in uniform. I
13 was on a training day.

14 Q. And did you do -- was the training
15 somewhere in person? Did you have to go to the
16 training? Was it something online? How did that
17 training work?

18 A. No. This was -- when COVID started, we
19 started doing our trainings online. So the
20 department would give us a couple of days off in
21 order to do our trainings. My trainings were done
22 ahead of time, which we were allowed to do.

23 And so by February 25th, my trainings had
24 already been done. So I was -- I had already

1 completed my obligations of training, so I was --

2 Q. So they weren't live. They were something
3 you could do ahead of time?

4 A. Right. They were online.

5 Q. But on the 25th you were still paid as an
6 employee. It's wasn't a day off or paid time off?

7 A. Correct.

8 Q. Okay. Were you at home when you were on
9 Facebook?

10 A. Yes.

11 Q. Was it -- did you have a department-issued
12 phone at that point in time?

13 A. No.

14 Q. Was it on your personal phone?

15 A. Yes.

16 Q. And looking at Exhibit 2 that's still right
17 in front of you, on the first page there's an
18 embedded image. Is that an accurate screen shot of
19 what you posted on Facebook that morning?

20 A. Yes.

21 Q. When did you delete the post?

22 A. It was a couple hours later.

23 Q. Were you at the Aquarium at that point, or
24 were you still home?

1 A. I don't think I was home. I think we were
2 either at the Aquarium or en route to the Aquarium.

3 Q. Do you remember how you got to the
4 Aquarium?

5 A. I drove.

6 Q. And you personally drove? Your wife didn't
7 drive and you were in the passenger seat?

8 A. No. I drove.

9 Q. Okay. And did you park at the Aquarium, or
10 did you park somewhere else and take public
11 transportation in?

12 A. We parked at a garage close to the
13 Aquarium.

14 Q. Do you remember what time you went to the
15 Aquarium?

16 A. Not exactly. It was late morning I think.
17 Right around eleven maybe.

18 Q. Do you recall how long you spent there?

19 A. I do not, no.

20 Q. How old were your children at the time?

21 A. My daughter was seven months old and my son
22 was five.

23 Q. He was five at the time, or is he five now?

24 A. He's seven now.

1 Q. Okay.

2 A. He was five.

3 Q. Okay. Did you have to have a stroller?

4 A. For my daughter I believe we did.

5 Q. Was it school vacation week?

6 A. I'm not positive.

7 Q. Was it crowded?

8 A. I do seem to remember it being very crowded
9 with kids all over the place. So it may very well
10 have been school vacation week.

11 Q. Do you recall whether it was a weekday or a
12 weekend?

13 A. I don't recall what day of the week it was.

14 Q. Okay. And you think you deleted the post
15 either while you were driving to the Aquarium or
16 while you were at the Aquarium?

17 A. It wouldn't have been while I was driving.
18 It would have been after we parked walking to the
19 Aquarium or shortly after getting there.

20 Q. When you were in the Aquarium?

21 A. Yes.

22 Q. Okay. Why did you delete the post?

23 A. It just didn't generate much conversation
24 at the time. And I just deleted it.

1 Q. When you say "it didn't generate much
2 conversation at the time," what -- what would
3 generate -- what would you consider to be a lot of
4 conversation?

5 A. People commenting on it.

6 Q. And you think it was just a couple hours
7 after you had posted it that you took it down?

8 A. Yes.

9 Q. If you look back at Exhibit 2 that's in
10 front of you, that screen shot that's embedded on
11 page 1, do you see that that screen shot was taken
12 52 minutes after you made the post?

13 A. Yes.

14 Q. And do you see that there are two comments
15 that were made within those 52 minutes?

16 A. Yes.

17 Q. Do you know how many comments there were
18 when you deleted it?

19 A. I do not.

20 Q. Did you read these at least two comments
21 that were made within those 52 minutes?

22 A. I'm sure that I did. I don't recall what
23 they were, but I'm sure that I did.

24 Q. Do you remember who posted them?

1 A. No.

2 Q. Do you remember generally what they were
3 about, if not the exact wording of the post -- of
4 the comments?

5 A. No. I do not.

6 Q. Have you deleted other posts within a few
7 hours of putting them up?

8 A. Yes.

9 Q. And why do you delete posts a few hours
10 after putting them up?

11 A. Same reason. Either they don't generate
12 much conversation, or they're no longer relevant.

13 Q. And the posts that you don't delete because
14 they do generate a lot of conversation, how many
15 comments do you get in the first couple of hours of
16 those posts?

17 A. I can't put a specific number on it. But,
18 I mean, enough that I would probably engage myself
19 in the conversation and, you know, have back and
20 forth talk with somebody.

21 Q. Did you reply to any of the comments on
22 this post --

23 A. No.

24 Q. -- the February 25th post?

1 A. No.

2 Q. And this post, the February 25th post, the
3 only reason you deleted that was because it didn't
4 generate a lot of conversation?

5 A. Yes.

6 Q. I'm going to show you another Facebook
7 post.

8 MS. KLEIMOLA: If I could mark this as I
9 think Exhibit 3.

10 (Facebook Post marked as Exhibit No. 3.)

11 Q. If you can take a look at Exhibit 3. Have
12 you seen this before?

13 A. Yes.

14 Q. And were you asked about this post during
15 your April 1st, 2021, PSU interview?

16 A. I think I was.

17 Q. Can you tell me where -- when you posted
18 this?

19 A. I don't recall.

20 Q. Can you tell me what it's about?

21 A. It's a music video.

22 Q. And what is "I think the Facebook police
23 nabbed me, dot, dot, dot, again" referring to?

24 A. Usually when Facebook -- when comments are

1 posted on Facebook that are -- excuse me -- that
2 Facebook deems offensive or inappropriate or vulgar,
3 things like that, I think Facebook takes it upon
4 themselves to delete the post itself.

5 Q. Were you referring to your February 25th,
6 2021, post with this second post in Exhibit 3?

7 A. I think I was, yes.

8 Q. Okay. And but your February 25th post had
9 not been taken down by Facebook, correct?

10 A. Correct. I took it down myself.

11 Q. So what did you mean by this second post?

12 A. I think I was just joking, being sarcastic.

13 Q. Did you post this before or after you were
14 placed on administrative leave?

15 A. I don't recall.

16 Q. When you were talking about the Facebook
17 police, were you referring to the Cambridge Police
18 Department?

19 A. No.

20 Q. And do you recall being asked about this
21 post in that April 1st, 2021, interview?

22 A. I believe I was, yes.

23 Q. Okay. In your discovery responses that you
24 provided you were asked who at the City of Cambridge

1 you believed had violated your rights. And you
2 named former City Manager Louis DePasquale; is that
3 correct?

4 A. I believe so, yes.

5 Q. Can you tell me why you believe that former
6 manager Louis DePasquale violated any of your
7 rights?

8 MR. WEBER: Objection to the form.

9 A. Can you repeat the question.

10 Q. Can you tell me how you believe former City
11 Manager Louis DePasquale violated any of your
12 rights?

13 MR. WEBER: Repeat the same objection.

14 A. I felt that the punishment that I received,
15 both the administrative leave as well as the
16 subsequent suspension for my Facebook post, was
17 infringing upon my First Amendment rights.

18 And Mr. DePasquale was the City Manager at
19 the time. He was the appointing authority of the
20 City. And therefore, I felt he had a hand in
21 handing down my discipline.

22 Q. Do you know whether your union grieved your
23 four-day suspension?

24 A. Yes.

1 Q. And did they?

2 A. Yes.

3 Q. Do you know -- has that process been
4 completed, or is it still pending?

5 A. I believe it's still pending.

6 Q. Do you know where it is in the process?

7 A. I don't. I know I had a hearing here. But
8 I haven't heard anything, no, since.

9 Q. Do you recall when that hearing was?

10 A. It was several months ago.

11 Q. And there's been no decision from anyone
12 yet?

13 A. Not that I've been made aware of.

14 Q. Okay. Just give me one moment.

15 (Pause.)

16 In your discovery responses you also
17 provided a number of screen shots of text messages.
18 And I'm going to give you --

19 MS. KLEIMOLA: First, I'll have marked the
20 entire bundle as Exhibit 4.

21 (Screen Shots of Text Messages marked as
22 Exhibit No. 4.)

23 Q. And if you can take a look at Exhibit 4,
24 can you tell me in referring to the Bates numbers at

1 the bottom of the page -- so it starts with 19.

2 A. Yes.

3 Q. Can you tell me if pages 19, 20 and 21 if
4 those texts are with the same person or whether they
5 are with different people?

6 A. Like the first three pages?

7 Q. Yes.

8 A. Those are -- I know for certain that one
9 and two are different people. I'm not sure about
10 two and three.

11 Q. Okay. Can you tell us who on page -- the
12 second page, so Bates number 20 at the bottom, who
13 that was with?

14 A. The -- which part? The whole --

15 Q. Oh. So I was assuming that the entire page
16 was a conversation with the same person. Are there
17 separate conversations on this page?

18 A. I would say -- well, the -- there was at
19 least two separate ones. I'm not sure if -- the
20 bottom three from "You have your beautiful family"
21 down to "Remember who matters," that's definitely
22 from the same person. I'm not sure if that "back
23 from Florida" part is part of the bottom three or
24 not.

1 Q. Okay. So why don't we take the first one
2 first, the "Hey brother."

3 A. Yes.

4 Q. Who is that from?

5 A. I'm not sure.

6 Q. Do you know if you replied to it?

7 A. I don't know.

8 Q. Do you know who the "back from Florida"
9 text is from?

10 A. I believe that was Officer Chris Borum.

11 Q. Do you know if you replied to it?

12 A. I don't know.

13 Q. And the three at the bottom starting with
14 "You have your beautiful family," do you know who
15 those three text messages were from?

16 A. Sergeant Halloran.

17 Q. And do you know if you replied to those
18 text messages?

19 A. I mean, I'm sure I replied to all of them.
20 I just don't know what my actual reply was.

21 Q. Do you know if you replied to these text
22 messages on the same subject as in a reply to these
23 messages, or just you replied to the person?

24 A. To the best of my recollection, my replies

1 were pretty much all along the same lines, like
2 thank you. Basically, thank you. I didn't really
3 get into much of a conversation with them.

4 Q. Okay. So turning to the next page that has
5 21 at the bottom, do you know are these text
6 messages from the same person, or are these from two
7 different people?

8 A. I'm not sure.

9 Q. Do you know who either one of these text
10 messages is from?

11 A. I'm not sure.

12 Q. Do you know if you replied to either one of
13 these text messages?

14 A. Again, I'm sure that I probably did, just
15 not specifically what I said.

16 Q. Turning to page 22 going on to 23, is this
17 chain of text messages on these two pages from the
18 same person, or are these from different people?

19 A. It's the same person.

20 Q. On both pages?

21 A. Yes.

22 Q. Do you know who they're from?

23 A. Sergeant Matt Mahoney.

24 Q. And did you reply to any of them?

1 A. Again, I'm sure that I did. But again,
2 basically along the same lines. Thank you.

3 Q. And going to page 24 at the bottom and then
4 onto page 25 where there's a line in the middle of
5 the page on page 25, so taking the text messages
6 that start on 24 and go to the line on 25, are those
7 from the same person or from different people?

8 A. Different people.

9 Q. And who is the first text message from on
10 page 24?

11 A. Officer Dave Maldonado.

12 Q. And the second text message on the same
13 page?

14 A. I believe that was Detective Collazo.

15 Q. And the bottom text message on the same
16 page?

17 A. I don't know who that was from.

18 Q. And going onto page 25, can you tell us who
19 the text messages above that line in the middle of
20 the page, who those text messages are from?

21 A. I don't recall who those are from.

22 Q. Are they from the same person or different
23 people?

24 A. I think those are from the same person.

1 Q. Okay. And it looks like you replied to one
2 of those after "such bullshit," it looks like your
3 reply got cut off?

4 A. Yeah.

5 Q. Where there's that blue bubble?

6 A. Yeah.

7 Q. Can you tell us what your reply was?

8 A. I don't recall.

9 Q. And the bottom text message on that page
10 below the line, can you tell us who that is from?

11 A. I cannot.

12 Q. Are they from the same -- is that text
13 message from the same person that sent the text
14 messages on the next page, page 26?

15 A. I don't believe so.

16 Q. And the text messages on page 26, are those
17 three text messages from the same person or from
18 different people?

19 A. I am not sure if they're from different
20 people or the same.

21 Q. Do you know who any of the -- who sent any
22 of them?

23 A. The one that starts with "Hey bud" was
24 retired Officer Jack Crowley.

1 Q. C-R-O-W-L-E-Y?

2 A. Yes.

3 Q. So you believe that Officer Crowley sent
4 the first message. Do you know whether he sent any
5 of the other two? Either of the other two?

6 A. I'm not sure.

7 Q. Do you know who sent either of the other
8 two?

9 A. No.

10 Q. Do you know if you responded to any of the
11 text messages on page 26?

12 A. I can't say for certain. But again, if I
13 did, it was probably just a thank you, something
14 along those lines.

15 Q. Turning to page 27 there are one -- five
16 text messages that you received and one text message
17 that you sent. The top four text messages that you
18 received, do you know if the same person sent them
19 or if it was from different people?

20 A. Different people.

21 Q. And who sent the top text message?

22 A. I believe that was Officer Darviris.

23 Q. Can you spell that last name?

24 A. Oh, boy. D-A-R-V-I-R-I-S.

1 Q. Did you reply to that text message?

2 A. Again, I'm sure that I did. Same lines.

3 Thank you.

4 Q. The next three text messages, were those
5 sent from the same person or from different people?

6 A. I'm not positive. I think they were from
7 the same person.

8 Q. Do you remember who that person is?

9 A. No.

10 Q. And there is one of your responses
11 included, "Angry but good." Do you know if you
12 replied any other way other than that?

13 A. Not that I recall.

14 Q. And the text message that you received
15 that's listed after your reply, "Angry but good,"
16 "We're here for you classmate," do you remember if
17 that was from the same person who sent the other
18 three text messages on this page, or was it a
19 different person?

20 A. I think it was the same.

21 Q. On page 28 do you recall who sent you this
22 text message?

23 A. I do not.

24 Q. Do you know if you responded?

1 A. I'm not certain.

2 Q. On page -- pages 29 through 32, are all of
3 these text messages to and from the same person or
4 different people?

5 A. Sorry. Twenty-nine through --

6 Q. Through the end, so through 32.

7 A. I believe those are all from the same
8 person.

9 Q. And who was that?

10 A. Officer Christopher Sullivan.

11 Q. Was he the union vice president at the
12 time?

13 A. Yes.

14 Q. And were these sent to him in his role as
15 union vice president?

16 A. Yes.

17 Q. Thank you. In discovery you provided some
18 medical records. Are you [REDACTED]
[REDACTED]

19 A. Yes.

20 Q. And what's the name [REDACTED] ?

21 A. [REDACTED] [REDACTED]
[REDACTED].

22 Q. How long have you [REDACTED]

1 [REDACTED]
2 A. [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED] [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED] [REDACTED] [REDACTED] [REDACTED]
9 [REDACTED]
10 [REDACTED] [REDACTED]
11 [REDACTED]
12 [REDACTED] [REDACTED]
13 [REDACTED]
14 [REDACTED] [REDACTED] [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED] [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED] [REDACTED]

21 Q. Was it -- do you know if it was work
22 related?

23 A. I can't say for certain.

24 Q. [REDACTED]

1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]

1 Q. [REDACTED]

2 [REDACTED]

3 [REDACTED] [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED] [REDACTED]

9 [REDACTED]

10 Q. Do you recall sometime in July of 2022 when
11 you were working a patrol shift in Central Square
12 seeing Commissioner Elow while you were working?

13 A. Yes.

14 Q. Was that once that you saw her or more than
15 once?

16 A. I'm sure I probably saw her on a couple of
17 occasions.

18 Q. Do you recall having a conversation with
19 her?

20 A. I do.

21 Q. Was that once or more than once?

22 A. I think it was just once in Central Square.

23 Q. Do you recall the date?

24 A. July -- I think it was the 12th. I'm not

1 positive.

2 Q. Do you recall what the conversation was?

3 A. I do.

4 Q. What was the conversation?

5 A. She had approached me in the square. At
6 that time there was a lot of recent violence in the
7 square. I think there had been a couple of
8 stabbings and just an overall increase in crime in
9 the square.

10 She had walked over to me and kind of asked
11 me my opinion on what I thought about what was going
12 on and, you know, my thoughts on what I could do to
13 kind of help curtail the crime and the violence.
14 And I gave her some suggestions of what I would do
15 if, you know -- that was the general gist of the
16 conversation.

17 Q. Was there any other topics other than
18 violence in Central Square and what you would do?

19 A. Yes. She told me that I was going to be
20 promoted.

21 Q. Do you remember how she phrased it?

22 A. She said, I just want you to know that I'm
23 going to promote you.

24 Q. Do you remember what -- if that was in

1 response to anything or if she changed the topic
2 completely and said that?

3 A. I think she just -- she just initiated that
4 conversation.

5 Q. Did you respond at all?

6 A. I did.

7 Q. And what did you say?

8 A. I asked her if it was going to be off of
9 the current list that we currently had or it was
10 going to be off -- it would have to be something in
11 the future.

12 Q. And what -- did she answer that?

13 A. She said it was going to be off the current
14 list.

15 Q. So this was in July of 2022. Do you know
16 -- do you remember when the list that was current
17 then expired?

18 A. I believe it was August, the end of
19 August 2022. So the following month.

20 Q. Any other -- do you remember any other part
21 of that conversation about the promotion?

22 A. She said something to the effect of, you
23 know, we just had to get through a few things with
24 POST. And she made some reference like to old

1 school policing versus new school policing and
2 things like that.

3 Q. When she referenced POST, do you know what
4 she was referring to?

5 A. She just mentioned POST. I didn't know if
6 she was talking about any specific investigations or
7 anything. She just said POST.

8 Q. And is POST the Peace Officer Standards and
9 Training Commission?

10 A. Yes.

11 Q. Did you have to be recertified by the POST
12 Commission in 2022?

13 A. Yes.

14 Q. Do you remember when that was?

15 A. I don't.

16 Q. And you said she also said something about
17 old school policing and new school policing. Do you
18 remember any more of what she said about that?

19 A. No.

20 Q. Do you remember anything else that you
21 said?

22 A. Specifically about the promotion or just in
23 general?

24 Q. Or about the old school policing versus new

1 school or about the POST Commission?

2 A. Not that I recall.

3 Q. Did you have to interact with any members
4 of the public while the Commissioner was there?

5 A. Yes.

6 Q. Do you recall what that interaction was?

7 A. I might a couple. I think one person just
8 kind of walked by and just greeted me and said, Hey,
9 what's up, how's things, something like that, and
10 shook his hand or a fist bump or something.

11 And another individual always sitting there
12 I observed drinking from a bottle of alcohol. So I
13 walked over to the person and said, Hey, knock it
14 off. The Police Commissioner is over there. You're
15 making me look bad. Put it away and save it for
16 later, you know.

17 And he was -- I'm sorry, I'm sorry, kind of
18 waved to the Commissioner and put the booze away.
19 And I walked back over to the Commissioner.

20 Q. Do you remember what time of day this was?

21 A. It was early in the morning. I would say
22 it was about eight-thirty, somewhere around there.

23 Q. Do you remember anything else that you and
24 the Commissioner talked about during that

1 conversation?

2 A. Basically, what I would do to -- she asked
3 me what I would do to combat like the drug problem
4 out there. And I kind of got into details with her
5 about how I would go about doing it and gave her
6 different aspects of, you know, what could be done
7 to combat the drug problem out there.

8 Q. And when you say "the drug problem out
9 there," where are you talking about, out there?

10 A. I'm talking -- just Central Square. I
11 mean, it's basically just an open drug market out
12 there. I mean, it's just blatant drug use and drug
13 sales going on constantly out there. And it's
14 really little to no enforcement. So I gave her my
15 opinions on what I would do to clean it up.

16 Q. And what opinions did you give her to clean
17 it up?

18 A. Well, I believe I gave her two different
19 scenarios, one with the use of undercover officers
20 and one with the use of informants.

21 Q. And can you go into any more detail about
22 what your suggestions were?

23 A. Sure. I told her that, you know, if we
24 took the one road with using undercover officers,

1 you know, we would have to get an undercover officer
2 from another agency, usually use the State Police or
3 another local department to go out there and I guess
4 infiltrate the goings on in the square and try to
5 befriend drug dealers and drug users and just become
6 -- blend in out there and try to make undercover
7 buys of drugs.

8 And I told her you could do it a couple
9 different ways. You could, you know, do undercover
10 buys and you could just arrest the dealer on the
11 spot there. Or, you know, the way we've done it in
12 the past is you could do a whole series of
13 undercover buys, do a whole long investigation,
14 secure warrants for individuals and go out one day
15 and just do like a warrant sweep and arrest all the
16 dealers on the warrants that we've obtained. I told
17 her that would be one option.

18 Another option I gave her was the use of
19 informants to do controlled purchases and obtain
20 search warrants and execute those search warrants
21 and go about it that way.

22 Q. Did you give any of other suggestions?

23 A. I think those are the only two I gave her.

24 Q. Any other parts of that conversation that

1 you remember?

2 A. The Commissioner said that she was a little
3 leery about using the users, the drug users as
4 informants. She didn't feel comfortable doing that.
5 And I told her -- I said, You don't necessarily have
6 to charge them. Like, you know, they'd be working
7 for us, you know.

8 And you don't necessarily have to -- well,
9 not with regard to using them -- she didn't like
10 using them as informants. But she was more
11 concerned about arresting the users, not -- not as
12 using them as informants. But, you know, if you
13 observed a drug deal and you arrested the drug
14 dealer, she was concerned about what would happen
15 with the buyer, the drug user.

16 You know, she didn't -- was kind of
17 concerned about their being arrested. And I told
18 her -- basically, I said, You don't have to arrest
19 them. I mean, you can summons them into court, you
20 know, just set up a clerk's hearing. You have a
21 little more leeway with that. They also have drug
22 court which you could, you know, refer the person to
23 drug court.

24 You know, and at some point during that

1 part of the conversation, the Commissioner said
2 something along the lines of, Well, they're just
3 crack heads anyway. And I kind of was taken aback
4 and looked at her because I currently had an open
5 investigation in Professional Standards where I was
6 alleged to have used the words -- the word crack
7 heads.

8 And I kind of just looked at her and said,
9 Really, Commissioner? You just called them crack
10 heads. And there's an open investigation. And she
11 said -- she said, Well, you just can't call them
12 that to their face. And I said, I didn't. And she
13 said, Well, you just can't call them that to their
14 counsellors. And I said, I didn't.

15 And I kind of just shrugged it off, and
16 that was kind of the end of it. Then another
17 officer walked over and joined in our conversation.
18 And he referred to some of the people out in the
19 square as crack heads. And I just threw my arms up
20 in the air. And I just looked at the Commissioner
21 and I said, Are you kidding me? You know, but that
22 was kind of the end of that. So --

23 Q. Do you remember who the other officer was?

24 A. I think it was Officer Billy Simmons.

1 Q. And before Officer Simmons walked up to
2 you, was there anyone else near you during the
3 conversation?

4 A. There were a couple of officers present,
5 but they were probably -- I mean, when I was talking
6 to the Commissioner, it was just the Commissioner
7 and me. We were separated by maybe ten feet from a
8 group of two or three other officers.

9 Q. Do you remember being an affiant to a
10 search warrant of 39 Inman Street in May of 2015?

11 A. Yes.

12 Q. Do you recall responding to 39 Inman Street
13 to execute the search warrant?

14 A. Yes.

15 Q. At what point in the execution of the
16 search warrant did you arrive at 39 Inman Street?

17 A. Entry had already been made. The apartment
18 had already been secured. And I believe initial
19 protective sweep had already been done. I'm not
20 sure if the actual -- I don't think the actual
21 search had begun yet.

22 Q. Do you recall what you did when you arrived
23 on the scene?

24 A. Not much. I mean, there were a number of

1 officers and detectives there. There was Cambridge
2 Police, SIU. It was DEA. I'm not sure if Homeland
3 Security and another agency was there. But there
4 were plainclothes officers everywhere. So I kind of
5 just walked around and just observed most of what
6 was going on.

7 Q. Do you remember why you arrived after entry
8 had already been made?

9 A. The search warrant was not prepared ahead
10 of time. It was kind of an ongoing -- ongoing
11 investigation. And it involved the controlled
12 delivery of a package. So once that took place, I
13 had to go to court to get the search warrant signed.
14 So in the time that it took me to get from court
15 back to the scene, they had already made entry.

16 Q. And court at that time was in Medford?

17 A. Yes.

18 Q. Did anyone drive with you back to the
19 scene?

20 A. I think I was with Detective Donofrio.

21 Q. Do you recall what you were driving, what
22 kind of car?

23 A. We had a -- at that time I think we had a
24 Toyota RAV4.

1 Q. Were you partners with Detective Donofrio
2 at the time, or were you together just on this
3 particular day?

4 A. I think at that time we were partners.

5 Q. And do you remember where in -- so first 39
6 Inman, is that a single family or a multiple family
7 home?

8 A. Multiple.

9 Q. Do you know how many units are in there?

10 A. I don't.

11 Q. Was it multi level?

12 A. Yes.

13 Q. Do you recall where you went?

14 A. The unit where we executed the search
15 warrant was on the left as soon as you walked in the
16 front door. So I would have been on the first level
17 on the left. And I believe there was a basement as
18 well.

19 Q. Did you go into the basement?

20 A. I did.

21 Q. Did you talk to anyone while you were in
22 39 Inman Street?

23 A. I'm sure I talked to a number of
24 individuals.

1 Q. Did you talk to any non-police officers
2 while you were inside 39 Inman Street?

3 A. I'm sure that I did.

4 Q. Do you remember who you spoke with?

5 A. The topic of the search warrant, Mr.
6 Bohnenberg. I don't recall anyone else.

7 Q. Do you recall anyone else being inside
8 39 Inman Street?

9 A. I think at some point another occupant of
10 that apartment came home.

11 Q. Do you remember another occupant coming
12 home?

13 A. Vaguely. I seem to remember at some point
14 through the search warrant another resident of that
15 unit came home.

16 Q. Do you remember if that other resident was
17 a male or a female?

18 A. Male.

19 Q. Do you remember if you spoke with that male
20 at all?

21 A. I do not.

22 Q. Do you remember that male's name?

23 A. I do not.

24 Q. Did you at any point have possession of any

1 of the evidence that was seized from 39 Inman
2 Street?

3 A. I'm sure that I did at some point, yes.

4 Q. Did you drive the evidence back to the
5 station?

6 A. I don't recall that. I'm not sure.

7 Q. Do you remember an Alexander Cornford?

8 A. I -- I know that eventually it was learned
9 that he was the other occupant of the unit, yes.

10 Q. The other male that had come home --

11 A. Yes.

12 Q. -- while you were executing the search
13 warrant?

14 A. Yes.

15 Q. And I'm sorry. You said you do or do not
16 remember driving the evidence back to the station?

17 A. I'm not positive if I did or if I did not.

18 Q. Do you recall bagging the evidence and
19 getting it ready to submit into -- I'm sorry. I
20 forget the name of the unit -- your evidence unit
21 after you got back to the station?

22 A. I did not.

23 Q. Are you saying that you remember you did
24 not bag and label the evidence when you got back to

1 the station or that you don't have a memory whether
2 you did or not?

3 A. I did not bag the evidence.

4 Q. Do you know why another officer said that
5 they helped you bag and label the evidence once you
6 got back to the station and that you had asked them
7 to help you?

8 A. I think what that's referring to is
9 essentially can you do this for me so I don't have
10 to do it, not I'm going to do this, can you give me
11 a hand with doing it.

12 Q. So you think you asked another officer to
13 bag and label the evidence?

14 A. That's how we regularly did things in the
15 drug unit. The arresting officer or the affiant
16 would sit at the desk and do the reports while other
17 detectives in the unit would handle all the
18 evidence.

19 Q. Do you remember asking another officer to
20 bag and label this evidence on this particular case?

21 A. I don't have a specific recollection of
22 that, no.

23 Q. Okay.

24 A. It was kind of just understood that that's

1 how we did things.

2 Q. But you don't recall that specific
3 question?

4 A. No.

5 Q. But you do have a specific memory that you
6 weren't the one who bagged and labeled the evidence
7 in this case?

8 A. Yes.

9 Q. Okay. Are you aware that two years later
10 some evidence from that search warrant was found in
11 the SIU offices?

12 A. Yes.

13 Q. Do you know where that evidence was found?

14 A. In a file cabinet.

15 Q. And where was the file cabinet within the
16 office?

17 A. It was in our -- we call it our evidence
18 staging area. That's where all the evidence was,
19 you know, processed and bagged.

20 Q. Do you know where that evidence -- how that
21 evidence came to be in that filing cabinet?

22 A. I do not.

23 Q. Was your call sign on the bag that
24 contained the evidence?

1 A. I believe it was, yes.

2 Q. Do you know how your call sign came to be
3 on the bag that had the evidence?

4 A. I believe Detective Collazo wrote it on
5 there.

6 Q. Do you know what the evidence was that was
7 found?

8 A. It was cash. And I think it was a bag of
9 drugs. Ketamine, I think it was.

10 Q. And was there a Pringles can with a false
11 bottom?

12 A. Yes.

13 Q. Do you know how -- do you know where that
14 Pringles can, the bag of drugs and the cash came
15 from?

16 A. Eventually, I learned they came from the --
17 39 Inman Street.

18 Q. Do you know where in 39 Inman Street it
19 came from?

20 A. The basement.

21 Q. Do you know whether it was found in a
22 particular room or whether it was found on a person?

23 A. I think it was in a room.

24 Q. Do you know which room?

1 A. I don't recall.

2 Q. Did you find this evidence in 39 Inman
3 Street?

4 A. No.

5 Q. And are you saying you don't whether you
6 did or that you have a specific memory that you were
7 not the one who found it?

8 A. I did not find it.

9 Q. Do you know who did find it?

10 A. I do not.

11 Q. And how do you know you didn't find it?

12 A. Well, I just don't have a specific memory
13 of finding it.

14 Q. Do you have a memory of having a
15 conversation with Alex Cornford?

16 A. No.

17 Q. And could you have had a conversation with
18 Alex Cornford?

19 A. It's quite possible, yes. I don't -- like
20 I said, there was a lot going on that day. I don't
21 specifically remember.

22 Q. The bag -- the brown paper bag that this
23 evidence was found inside of once it was at the
24 Cambridge police station, did you ask any other

1 officer at 39 Inman Street to give you a bag for
2 evidence?

3 A. Not that I specifically recall, no.

4 Q. Could you have?

5 A. I could have, yes.

6 Q. Okay. And you could have been the one to
7 drive the evidence back to the station?

8 A. Yes.

9 Q. If you had gotten a bag for evidence from
10 another officer, what would you have done with any
11 evidence you put inside that bag?

12 A. It would have been placed -- well, it would
13 have been placed with all the other evidence to be
14 transported.

15 Q. And so is all of the evidence given to one
16 particular officer at the scene when you're
17 executing a search warrant?

18 A. Yes.

19 Q. Do you know who that officer was in this
20 case?

21 A. I don't recall.

22 Q. Does that same officer also drive the
23 evidence back to the station?

24 A. It could vary.

1 Q. Okay. And did the execution of this search
2 warrant result in any criminal charges?

3 A. Yes.

4 Q. How many times have you been involved in an
5 execution of a search warrant that resulted in
6 criminal charges?

7 A. I would say well over 50.

8 Q. So you understand the importance of chain
9 of custody?

10 A. Yes.

11 Q. Can you describe for us what the steps you
12 and SIU would take to ensure chain of custody during
13 the execution of a search warrant.

14 A. When something was found at the scene, it
15 would -- sometimes it would be photographed. It
16 would be placed in an evidence bag, remain with the
17 evidence officer. Then all the evidence would be
18 transported to the station, brought to our evidence
19 staging area where it would be bagged, processed,
20 tested if it needed to be tested. And it would then
21 be submitted to the evidence and property unit.

22 MR. WEBER: Before you ask your next
23 question, I'd like to take a short break.

24 MS. KLEIMOLA: Of course.

1 MR. WEBER: Working related.

2 MS. KLEIMOLA: Oh, yeah.

3 MR. WEBER: So could we just break for ten
4 minutes?

5 MS. KLEIMOLA: Yeah.

6 (Off the record.)

7 (Recess begins at 11:49 a.m.)

8 (Recess ends at 12:11 p.m.)

9 BY MS. KLEIMOLA:

10 Q. So I think my last question was can you
11 explain the steps you would take in the SIU to
12 secure a chain of custody after the execution of a
13 search warrant.

14 A. Hmm-hmm. The evidence found at the scene,
15 sometimes it would be photographed, sometimes not.
16 It would be given over to the scribe or the evidence
17 officer who would log it, would hold onto that.

18 And it would be conveyed to the police
19 station where it would be brought to our evidence
20 staging area, specifically in the SIU. And it would
21 be processed there, packaged, labeled, tested and
22 then submitted to the department's evidence property
23 unit.

24 Q. So when evidence is found at a location

1 during the execution of a search warrant, is it
2 always given to the evidence officer or the scribe
3 at that location, or is it given to one particular
4 person once you transport it back, like everyone
5 takes everything they found back to the station?

6 A. It's usually all transported together.

7 Q. Okay. Is there always an evidence officer
8 or a scribe at every execution of a search warrant?

9 A. Yes.

10 Q. Do you remember who the evidence officer or
11 the scribe was during the execution of this
12 particular search warrant?

13 A. No.

14 Q. Is the evidence officer or the scribe ever
15 the same person as the affiant of the search
16 warrant?

17 A. No.

18 Q. And why not?

19 A. We just kind of delegate different duties
20 to different people. You want to stay focused on
21 what your task is.

22 Q. Does the evidence officer or the scribe,
23 are they the ones who drive the evidence back to the
24 station?

1 A. Not necessarily.

2 Q. Okay. And is the evidence officer or the
3 scribe the one who brings it back to that staging
4 area, packages it up and does anything that needs to
5 be done before it's given to the property and
6 evidence unit?

7 A. Not necessarily.

8 Q. Is the affiant ever the one who always
9 takes care of either one of those, either driving
10 the evidence or taking care of the packaging and
11 anything else that needs to be done before it's
12 given to the property and evidence unit?

13 A. The affiant could drive the evidence back
14 to the station. I would say it is extremely rare
15 for the affiant to -- to actually process the
16 evidence as well. I'm sure it's happened, but it is
17 rare.

18 Q. And is the evidence -- forgive me if I
19 already asked this. Is it usually the evidence
20 officer or the scribe at -- who's designated the
21 evidence officer or the scribe at the execution of
22 the search warrant the one who packages and labels
23 it before -- when it's at the police station and
24 before it's given to the evidence and property unit?

1 A. Not necessarily the same person.

2 Q. Okay. And you have a specific memory that
3 you were not the evidence officer on this search
4 warrant, or you don't recall?

5 A. I was not.

6 Q. And you have a specific memory that you
7 were not the one who took care of bagging it and
8 labeling it back at the station?

9 A. Correct.

10 Q. Okay. And you don't ever recall having
11 that Pringles can and that bag of drugs and the
12 cash?

13 A. That's correct.

14 Q. Do you know who found those items at
15 39 Inman?

16 A. I do not.

17 Q. Do you know who placed them in the filing
18 cabinet at the Cambridge Police SIU office?

19 A. I do not.

20 Q. Do you know who found them at the Cambridge
21 Police SIU office?

22 A. Detective Branley.

23 Q. Do you know how he found them?

24 A. I think he was looking for something else

1 and stumbled across it.

2 Q. Were you there at the time?

3 A. No.

4 Q. Were you ever asked about that evidence
5 that Detective Branley found?

6 A. Yes.

7 Q. And who asked you about it?

8 A. Initially, I think it was Detective Borum.

9 Q. And do you remember what that conversation
10 was?

11 A. I don't remember specifically. I know he
12 asked me if I recognized the items or if I was
13 familiar with the name.

14 Q. And what did he show you when you say "the
15 items"?

16 A. I don't specifically remember exactly what
17 he showed me. I believe there was a pill bottle
18 because I think I ran the name that was on the pill
19 bottle through our system and through CJIS to try to
20 determine who that person was. I don't want to
21 assume that he showed me the money and the other
22 drugs, but I'm sure that he probably did.

23 Q. And what about that brown paper bag?

24 A. I don't recall the brown paper bag.

1 Q. Did you ever see the brown paper bag?

2 A. I don't recall.

3 Q. Do you remember seeing your call sign on
4 the brown paper bag?

5 A. No. I don't recall.

6 Q. Okay. Were you disciplined as a result of
7 that incident and investigation?

8 A. Yes.

9 Q. When were you disciplined?

10 A. I don't remember the exact time. It was --
11 I don't remember the exact.

12 Q. Do you remember the year?

13 A. 2019 I think it was.

14 Q. Do you know when Detective Branley found
15 that evidence in the filing cabinet?

16 A. I don't recall the exact date, no.

17 Q. Do you remember the year?

18 A. I think it was 2017 maybe.

19 Q. And what was your discipline?

20 A. I had to forfeit one day of benefitted
21 time.

22 Q. And do you know what rule or regulation you
23 were found in violation of?

24 A. Yes. It was the kind of general rules and

1 obligations of the department. Specifically, I was
2 told that I did not keep my supervisor updated as to
3 the progress of a case -- of the case.

4 Specifically, that there may have been an informant
5 that could have been -- there could have been a
6 potential informant from that case. That was --

7 Q. And who was the potential informant in that
8 case?

9 A. I don't know. I'm assuming it was that --
10 was it Alexander? Is that his name? Cornford? Is
11 that his name? I can only assume that that's who it
12 was.

13 Q. Okay. Did you appeal that discipline?

14 A. Yes.

15 Q. Did you appeal it yourself through the
16 civil service or through your union?

17 A. Through the union.

18 Q. And what was the result of the appeal?

19 A. I don't know.

20 Q. Have you ever received word that it was
21 reduced or changed in any way?

22 A. No.

23 Q. Do you know if there's been a hearing?

24 A. Not to my knowledge.

1 Q. Okay. Were you also disciplined in 2005 or
2 2006?

3 A. I believe so, yes.

4 Q. Do you recall if the discipline took place
5 in 2005 or 2006?

6 A. I don't recall.

7 Q. What were you disciplined for?

8 A. I believe it was failure to obey a direct
9 order. There were a couple of other charges that
10 were eventually dropped. But the one that stuck was
11 failure to obey a direct order.

12 Q. And what was your discipline in 2005 or
13 2006?

14 A. It was ultimately a two-day suspension.

15 Q. Did you serve more than three days of the
16 suspension?

17 A. I did.

18 Q. Was the three-day suspension a result of an
19 agreement between the City and the union?

20 A. Yes.

21 Q. What was the original discipline?

22 A. Thirty days I think.

23 Q. Could it have been 45 days?

24 A. It could have been. Actually, I think it

1 was 45, 30 to serve I think it -- is what -- if I
2 remember correctly.

3 Q. Okay. And I understand what the charges
4 were that you -- were the charges that you
5 ultimately served that three-day suspension for also
6 adjusted during that agreement with the union and
7 the City?

8 A. I'm sorry. Can you repeat that.

9 Q. That was a terrible question. In that
10 agreement where your suspension went from 45 days to
11 three days, did the charges also change as a result
12 of that agreement?

13 A. Yes.

14 Q. Okay. So were there any additional charges
15 that you were -- that were sustained against you?

16 A. Initially, yes.

17 Q. What were those charges?

18 A. One was a hostile work environment. I
19 don't recall what the other one was.

20 Q. And can you tell us what the basis of those
21 substantiated charges were?

22 A. It was -- I had a relationship with another
23 officer in the department. And she made some
24 accusations against me. The department did an

1 investigation. And those were their findings.

2 Q. What was the race of the other officer
3 involved that you had the relationship with?

4 A. White.

5 Q. When the relationship started, was that
6 other officer an intern with the Cambridge Police?

7 A. She was.

8 Q. At any time were you told by a superior
9 officer not to contact the officer you were -- had
10 been in the relationship with?

11 A. Yes.

12 Q. Did you contact that officer anyway despite
13 your superior officers telling you not to?

14 A. I don't recall.

15 Q. Were you at some point told by a superior
16 officer not to go to the clerk's area or the front
17 desk area without permission of the shift commander?

18 A. Yes.

19 Q. And did you go to the front desk or the
20 clerk's area without permission of the shift
21 commander after you were told not to?

22 A. I believe there was one occasion when I
23 did, yes.

24 Q. And was this when the police headquarters

1 was in Central Square, not in its current building?

2 A. Yes.

3 Q. Did you learn that that officer -- female
4 officer you'd been in a relationship with had
5 started a new relationship with another officer?

6 A. I did.

7 Q. Did you drive by that other officer's house
8 to see whether she was there?

9 A. I did.

10 Q. Was that in the middle of the night?

11 A. I don't recall the exact time.

12 Q. Have you also received a number of awards
13 and commendations?

14 A. Yes.

15 Q. Let me see if I can find them. Do you
16 recall in 2019 receiving the Employee Recognition
17 and awards -- I'm sorry -- the Herbert Halliday Life
18 Saving Ribbon?

19 A. Yes.

20 Q. Do you recall why you received that?

21 A. I think that was for -- he was a shooting
22 victim. He was shot. And I applied a tourniquet to
23 that victim and rendered medical aid.

24 Q. Do you remember when that was that you

1 rendered the aid?

2 A. I don't.

3 Q. Do you recall in 2017 receiving Detective
4 of the Year?

5 A. Yes.

6 Q. Do you know if that was for any one
7 particular case or investigation or if that was just
8 for cumulative work?

9 A. Cumulative.

10 Q. And were you still in the Special
11 Investigations Unit at the time?

12 A. I was.

13 Q. Do you recall participating at the Human
14 Services Council Regional Meeting in 2016, a class
15 on Opioid Addiction Fact and Fiction? It was at the
16 Northborough senior center in Northborough,
17 Massachusetts, if that helps you remember.

18 A. Yes. I do remember that, yes.

19 Q. Can you tell us what that training was
20 about?

21 A. I honestly can't specifically say what it
22 was at this time.

23 Q. Do you recall receiving the Albert G.
24 Eckardt, E-C-K-A-R-D-T, Medal of Commendation in

1 2014?

2 A. Yes.

3 Q. Do you know if you received that for any
4 one particular act or incident?

5 A. There was one particular act.

6 Q. Can you tell us what that was.

7 A. It was for my actions in the -- I believe
8 that one was for my actions in the Watertown
9 shootout in the Boston bombing, the marathon
10 bombing.

11 Q. And do you know what particular -- what did
12 you do in the Watertown shootout?

13 A. My -- Detective Donofrio and myself were
14 two of the first officers on scene in Watertown
15 during the shootout. We assisted many other
16 agencies throughout the night with the follow-up
17 investigation.

18 And subsequently the following day when the
19 second terrorist was captured in the boat, I was on
20 scene there and assisted in evacuating houses on the
21 scene.

22 Q. And when you responded to the Watertown
23 shootout, were you in Special Investigations Unit at
24 the time?

1 A. Yes, I was.

2 Q. So were you and Detective Donofrio in
3 plainclothes?

4 A. Yes.

5 Q. Do you also recall receiving the William J.
6 Carroll Letter of Commendation again in 2014?

7 A. Not specifically, no.

8 Q. Okay.

9 A. I've received a number of Carroll
10 commendations. And I can't say for certain which of
11 those, which acts. They're usually all for one
12 specific act.

13 Q. And so do you know if you received it in
14 2014 what it would be for?

15 A. I don't recall what that one was for.

16 Q. Do you recall receiving the William J.
17 Carroll Letter of Commendation in 2010?

18 A. Again, I don't -- I know that I've received
19 many of them. I don't recall the years that I
20 specifically got them.

21 Q. If you did receive one in 2010, do you
22 remember what that would have been for?

23 A. No.

24 Q. Do you remember receiving the

1 Commissioner's Unit Award Ribbon One Star in 2013?

2 A. Yes.

3 Q. Do you recall what that was for?

4 A. It was for work done in the SIU. I don't
5 remember if it was for any specific act. But I know
6 it was -- I'm pretty sure it was directly related to
7 my work in the unit. With that award the entire
8 unit gets the award.

9 Q. Does the name Operation Booting Heroin
10 sound familiar to you?

11 A. Yes.

12 Q. Was that something that you worked on in
13 SIU?

14 A. Yes. That was a -- it was an undercover
15 operation in the Central Square area focused on
16 targeting heroin dealers.

17 Q. And do you remember receiving the Albert
18 Eckardt Commendation Medal in 2009?

19 A. Yes.

20 Q. Do you recall what that was for?

21 A. If I remember correctly, that was -- there
22 was a shooting on I think Pine Street in Cambridge.
23 And I chased the shooter and took him into custody
24 and recovered a firearm.

1 MS. KLEIMOLA: I do not have any more
2 questions. Do you?

3 MR. WEBER: I do not.

4 MS. KLEIMOLA: Okay. Well, thank you.

5 THE WITNESS: Thank you.

6 THE COURT REPORTER: Would you like a copy
7 of the transcript?

8 MR. WEBER: Sure.

9 (Whereupon the deposition concluded at
10 12:29 p.m.)

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1 DEPONENT'S ERRATA SHEET
2 AND SIGNATURE INSTRUCTIONS
3

4 The original of the Errata Sheet has been
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6 When the Errata Sheet has been completed by
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2 CASE: BRIAN HUSSEY -VS- CITY OF CAMBRIDGE and
3 BRANVILLE BARD, in his capacity as Commissioner of
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APRIL 6, 2023

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18 I have read the foregoing transcript of my
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changes noted above, I hereby subscribe to the
transcript as an accurate record of the statements
made by me.

19 Signed under the pains and penalties of
perjury this _____ day of _____, 2023.

20
21
22
23 BRIAN HUSSEY
24

1 C E R T I F I C A T E

2 COMMONWEALTH OF MASSACHUSETTS

3 MIDDLESEX, SS.

4

5 I, Margaret G. Oliver, Notary Public in and
6 for the Commonwealth of Massachusetts, do hereby
certify that BRIAN HUSSEY, the witness whose
7 deposition is hereinbefore set forth, was duly sworn
by me and that such deposition is a true record of
the testimony given by the witness.

8 I further certify that I am neither related to
or employed by any of the parties hereto or counsel
9 to this action, nor am I financially interested in
the outcome of this action.

10 In witness whereof, I have hereunto set my
hand and seal this 9th day of May 2023.

11

12

13 Margaret G. Oliver
14 Notary Public
My commission expires: May 30, 2025

15

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	<p style="text-align: center;">V</p> <p>vacation [3] - 29:6, 44:5, 44:10 vaguely [1] - 73:13 varied [3] - 17:20, 19:11, 28:24 varies [1] - 12:16 vary [3] - 12:15, 21:12,</p>	<p>Washington [6] - 13:22, 14:5, 14:6, 14:8, 14:9, 14:15 Watertown [4] - 93:8, 93:12, 93:14, 93:22 waved [1] - 65:18 ways [2] - 19:3, 67:9 WEBER [13] - 2:3, 4:10, 4:13, 4:16, 38:21, 49:8, 49:13, 80:22, 81:1, 81:3, 96:3, 96:8, 97:5 Weber [1] - 2:5 week [8] - 12:13, 28:22, 29:6, 29:7, 32:4, 44:5, 44:10, 44:13 weekday [1] - 44:11 weekend [1] - 44:12</p>	<p>Y</p> <p>Year [1] - 92:4 year [10] - 10:23, 18:21, 23:14, 26:15, 26:17, 28:11, 30:12, 36:8, 86:12, 86:17 yearly [1] - 61:6 years [19] - 5:18, 6:5, 6:6, 6:20, 12:24, 13:2, 13:13, 14:21, 16:16, 16:17, 18:16, 22:23, 25:22, 25:24, 33:1, 59:2, 76:9, 94:19 yourself [3] - 4:20, 37:23, 87:15</p>

EXHIBIT 2



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Police Department*



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Dr. Branville G. Bard, Jr.
Police Commissioner

Louis A. DePasquale
City Manager

TO: Director James Mulcahy
FROM: Lieutenant Philip McDavitt
SUBJECT: Final Report of Investigation

DATE: April 14, 2021

REF: SI-2021-003

Subject:

The Professional Standards Unit (PSU) received information regarding a social media post made by Officer Brian Hussey on Facebook on February 25, 2021 at 8:08AM. On that date, at that time, Officer Hussey was on a Training Day for Virtual In-Service, making him on duty when he made the Facebook post.

Background:

On Wednesday, March 3, 2021, representatives from the National Association for the Advancement of Colored People (NAACP) made the Cambridge Police Department (CPD) aware of a Facebook post allegedly made by Officer Hussey. The NAACP provided a screenshot of the Facebook post in question.



WHDH.COM
House Democrats reintroduce police reform bill
named in honor of George Floyd

2 Comments

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Upon reviewing the Facebook post, PSU determined Officer Hussey made it on February 25, 2021 at approximately 8:08AM. A check of the officer's OnDuty showed at that date and time Officer Hussey was on his fourth scheduled shift; however, on February 25th, he was not assigned to a route, instead he was on "Training: Regular Hours," to complete Virtual In-Service Training. Pursuant to this staff investigation, PSU obtained a P650 Report and conducted an interview with Officer Hussey.

Violations Under Investigation:

1. Cambridge Police Department Rules and Regulations
Chapter 2, Section III, Paragraph B

The following acts by a member of the Force are prohibited: Discourtesy, rudeness, or insolence to any member of the public.

2. Cambridge Police Department Policies & Procedures
No. 212 Internet, E-mail, & Computer Usage
Section V, Paragraph D

Recognizing that personnel do have electronic devices, namely personal mobile phones which have a variety of capabilities, there may be certain applications they may use as long as it is used in the furtherance of official duties, or as allowed by this and other policies.

3. Cambridge Police Department Policies & Procedures
No. 230 Addressing Bias-based Policing
Section V, Paragraphs A, Part 1

As a means of offsetting and preventing inappropriate perceptions of biased law enforcement, each officer is expected to adhere to following protocols whenever engaging the general public: Be courteous and act professionally at all times.

Persons Interviewed:

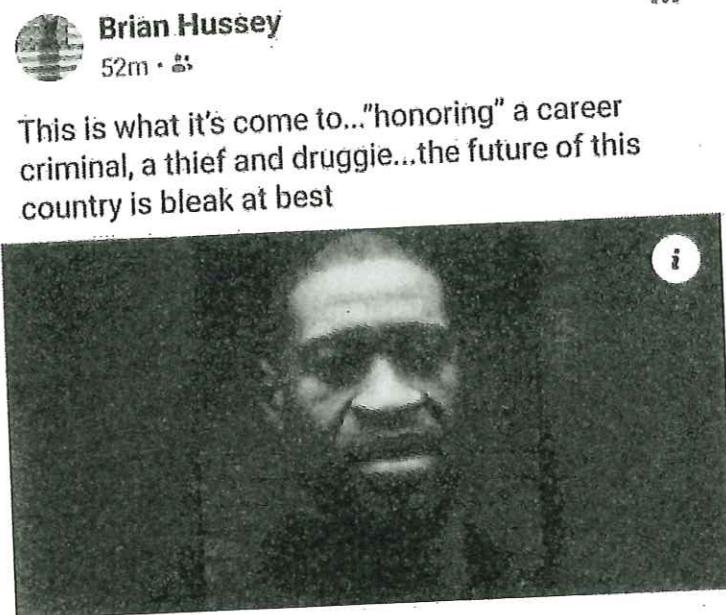
Officer Brian Hussey
125 Sixth Street
Cambridge, MA 02142
617-349-3300
April 1, 2021

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Summary:

Officer Brian Hussey Facebook Post:

Officer Hussey posted the following to his Facebook page on February 25, 2021 at approximately 8:08AM (Exhibit 4):



WHDH.COM
**House Democrats reintroduce police reform bill
named in honor of George Floyd**

2 Comments

This is a screenshot the NAACP provided to the Department on March 3, 2021, which initiated this investigation. Officer Hussey reposted a WHDH news article regarding a proposed bill, entitled "H.R. 7120 - George Floyd Justice in Policing Act of 2020," under consideration by the United States Congress. According to Congress.gov, this legislation "addresses a wide range of policies and issues regarding policing practices and law enforcement accountability. It includes measures to increase accountability for law enforcement misconduct, to enhance transparency and data collection, and to eliminate discriminatory policing practices."

Officer Brian Hussey P650 Report:

The officer grew up in the City of Cambridge and lived in the City for over thirty years. During that time, he attended Cambridge Public Schools and participated in numerous sports. Officer Hussey reported he was exposed to considerable diversity while living in Cambridge and is

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respectful of individuals with multicultural backgrounds. He has been a Cambridge Police Officer for approximately twenty-three years.

On Thursday, February 25, 2021, at approximately 8:00AM, the officer was off-duty at home when he reposted a WHDH news article to his personal, private Facebook account. The news article was entitled, “House Democrats reintroduce police reform bill named in honor of George Floyd.” In addition to reposting the WHDH news article, the officer wrote the following statement and attached it to this Facebook post, “This is what it’s come to... ‘honoring’ a career criminal, a thief and druggie...the future of this country is bleak at best.” He deleted this post from his Facebook page a “short time later.”

According to Officer Hussey, the majority of the content he posts to his Facebook account involves his family, his children, and his dog. The officer occasionally posts newsworthy topics that are of interest to him and has friendly debates and constructive dialogue with his friends on Facebook. The officer explained it is not uncommon for him to delete content he posts on his Facebook account when his discussion with his friends is over. Officer Hussey deleted the February 25th Facebook post referencing George Floyd because the post “did not generate much conversation at the time.”

He explained he is supportive of police reform, believes what happened to George Floyd was unjust, and Mr. Floyd did not deserve to die. Officer Derek Chauvin and the other police officers involved in the death of George Floyd are a “disgrace to the badge,” he added. The officer agrees police reform is necessary because there are some rogue and dishonest officers; however, he does not think it is appropriate to name the police reform bill after George Floyd.

He continued, “While George Floyd did not deserve to have his life taken away that day, he was still a violent career criminal. I feel that attaching the name of a violent career criminal, in ‘honor’, to a reform bill aimed at the betterment of policing is a disservice to the spirit of the bill.” Officer Hussey asserts George Floyd’s race played no role in his Facebook post and he would have felt the same way if a police reform bill was named after a “violent career criminal” of any race. The officer adamantly refutes any suggestion he is racist or condones racism. He believes there are

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individuals more honorable than George Floyd that the police reform bill could have been named after.

The officer reiterated his disapproval of the manner in which George Floyd was treated by the Minneapolis Police Department. He believed George Floyd deserved to be treated with respect and did not deserve to have his life taken away. Officer Hussey contended his Facebook post was being taken out of context and he was merely attempting to express his concern regarding the name of the police reform bill. Additionally, he rebukes any allegations that his Facebook post was racially insensitive. The officer feels he was within his rights to voice his opinion because his Facebook post did not reference the Cambridge Police Department.

Officer Brian Hussey PSU Interview:

Officer Hussey was interviewed by PSU investigators on April 1, 2021 at approximately 10:21AM in the 4th floor PSU conference room. He has been a Cambridge Police Officer for approximately twenty-three years. The officer is currently assigned to the Patrol Operations day shift; he was previously a member of the Special Investigations Unit (SIU) for ten years, where he primarily conducted drug investigations. Additionally, his SIU responsibilities included working closely with social workers to offer services to individuals suffering from substance use disorder.

PSU investigators began the interview by reviewing Officer Hussey's P650 report he submitted on March 7, 2021. The officer confirmed he only reposted the WHDH news article to Facebook on February 25, 2021 and no other social media sites. He believes he used his personal cell phone to repost this article on Facebook. Investigators then presented Officer Hussey with a screenshot of his OnDuty calendar for February 2021 (Exhibit 1). On February 25, 2021, the officer's OnDuty schedule read, "Work 0700-1500 TRAIN." On January 12, 2021, at 7:38AM, Lieutenant Daniel Reagan entered Officer Hussey into OnDuty as "Training: Regular Hours" for the officer's shift on February 25th.

Officer Hussey was asked to clarify the statement he made in his P650 report that he was off-duty when he made the Facebook post in question on February 25, 2021 at approximately 8:00AM. The officer explained he completed all his In-Service training prior to February 25th. According to Officer Hussey, "The way it was explained to me was, 'You're getting two days off to do your

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trainings. Should you complete your trainings prior to...those days...you don't have to do your trainings on those days.””

PSU investigators advised Officer Hussey he was considered on duty between 7:00AM and 3:00PM on February 25th because he was being compensated by the City of Cambridge for working his regularly scheduled shift that day. Investigators also informed the officer he was ineligible to work a detail or overtime between the hours of 7:00AM and 3:00PM on February 25th. Additionally, the officer was subject to “call-back” and could be ordered to respond to the City in the event of a public safety emergency during those hours.

Investigators next asked Officer Hussey several questions regarding his Facebook account and its privacy settings. The officer explained access to his account is restricted, meaning the general public cannot view his Facebook page. In order for someone to be able to view what Officer Hussey posts on Facebook, the officer would first have to accept their “friend request” on the social media site, and he does not accept friend requests from individuals he does not know. Officer Hussey confirmed he is unable to prevent his Facebook friends from copying his Facebook posts and distributing them to individuals he is not Facebook friends with.

He estimated he has approximately 674 friends on Facebook. Investigators inquired how many of his Facebook friends are members of the Cambridge Police Department. He responded, “A big portion...a decent amount.” Officer Hussey noted he is also Facebook friends with members of other law enforcement agencies and believes the majority of his Facebook friends are aware he is a Cambridge Police Officer.

PSU investigators presented Officer Hussey with his Facebook post referencing George Floyd, which was posted on February 25, 2021 at approximately 8:08AM (Exhibit 4). Officer Hussey reaffirmed the statements he provided in his P650 report. Specifically, while George Floyd did not deserve to be treated so inhumanely by the Minneapolis Police Department, Officer Hussey believes it is inappropriate to name a police reform bill after George Floyd because he was a violent career criminal.

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Investigators explained how the officer's description of George Floyd as a "druggie" in his Facebook post is discourteous and insensitive to those suffering from substance use disorder. Officer Hussey acknowledged he is required to be courteous and act professionally at all times to avoid perceptions of bias.

At the end of the interview, the CPPOA Attorney asserted officers are considered to be off-duty if they are on a scheduled training shift and have completed the required training in advance.

Conclusion:

As part of this investigation, PSU reviewed the social media post in question (Exhibit 4), Officer Hussey's P650 Report, his OnDuty for February 2021 (Exhibit 1), and a transcript of his PSU interview.

One of the first issues to address is Officer Hussey's status of on duty opposed to off-duty on Thursday, February 25, 2021 at approximately 8:00AM. In his P650 Report, the officer stated he was at his residence off-duty. A review of Exhibit 1 shows on February 25th, he was not on a scheduled day off or on any of the benefitted time that falls under Article 20 of the CPPOA's contractual agreement with the City.

The definition of off-duty is given in the Department's Policies and Procedures. Specifically, policy No. 205 which addresses off-duty police powers and conduct. In Section III, Paragraph B, the definition of off-duty is given:

- B. **Off-Duty Status:** Refers to the status of a sworn member of this department when that individual is free from the performance of specified police duties (e.g., regularly scheduled shifts, overtime assignments, private paid details, or times when an officer may be called back into service). This normally covers those periods of time when an officer is not scheduled to work, also referred to as time off, annual leave, or other forms of leave.

As the OnDuty system shows, Officer Hussey was on "Training: Regular Hours," from 7:00AM to 3:00PM. This entitled him to receive his base pay from the City during these hours. This also prevented him from being eligible to work a detail or overtime assignment. Also, had there been a sudden need for additional officers in the City, Officer Hussey was not free from being called

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back into service. If the officer was called in during the hours of his shift, it would be without the benefit of receiving Overtime until after 3:20PM that day.

During the officer's PSU interview, the CPPOA Attorney noted there are various instances when an officer completes her/his training prior to the scheduled finish time, they are allowed to leave the training and considered off-duty. While the CPPOA Attorney did not give any specific examples, the most common instances of this would be during annual In-Service and Firearm Qualifications, referred to within the Department as the "Range." There are various factors that could lead to personnel being dismissed prior to the scheduled finish time of each of the four days of In-Service or at the Range each year. While officers may be dismissed prior to the scheduled finish time and allowed to return home, they are frequently reminded they are ineligible to take a detail or overtime assignment until after the scheduled end time of In-Service or the Range. The reason for this is to prevent "double dipping," which is a violation of the Commonwealth's state ethics laws.

In short, by Officer Hussey not being on a scheduled day off or any paid benefitted time off, such as the days that fall under Article 20 of the agreement between the CPPOA and the City, from 7:00AM to 3:00PM on February 25, 2021, he was on duty at the time he posted Exhibit 4.

As such, the Department has policies and procedures in place concerning the use of personal electronics, specifically cell phones, while on duty. Any use of personal computers, which cell phones fall under, must be in furtherance of the officer's official duties. Under no circumstances was it any part of Officer Hussey's official duties and responsibilities to post commentary on a police reform bill on his personal Facebook account.

While that violation is specific to conduct while officially on duty, Cambridge Police Officers are subject to the rules, policies, and procedures of the Department even while off-duty and receiving no pay from the City. The best example of this is even while on vacation and outside of the hours of the officer's scheduled shift, all officers are prohibited from participating in criminal activity.

As such, even if Officer Hussey believed he could post Exhibit 4 while off-duty and not be subject to the rules, policies, and procedures of the Department, he was misinformed. By the officer's own admission, the majority of his approximately 674 Facebook friends are aware he is a

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Cambridge Police Officer. Therefore, anything he posts has the potential to reflect the opinions and thoughts of police officers in Cambridge. This is what occurred when an unknown member of the community alerted the NAACP to the Facebook post.

In Exhibit 4, Officer Hussey refers to George Floyd as, “a career criminal, a thief and a druggie,” and noted, “the future of this country is bleak at best.” This was in reference to a police reform bill being named in honor of George Floyd. There is no other context given in the Facebook post, and as a result, Officer Hussey’s meaning behind the post is open to interpretation by everyone who reads it. This is in addition to the reader’s knowledge that the person who posted Exhibit 4 is a Cambridge Police Officer.

Objectively, the post is rude and discourteous to George Floyd, whose death was well covered in the media and brought a call for police reform nationally. By Officer Hussey referring to him as a “career criminal, a thief and a druggie” it gives the appearance the officer does not believe in rehabilitation and uses a derogatory term for someone who struggles with substance use disorder. To say the post can be interpreted as insensitive to the circumstances surrounding George Floyd’s death would be an understatement, given the officer provides no further context in the post.

The officer acknowledged that once this is posted on his Facebook account, he does not have the ability to prevent his Facebook friends from sharing this post from his account with people he is not friends with on Facebook. As this post clearly was disseminated outside of Officer Hussey’s group of friends on Facebook, it now can be viewed by people who have never met or spoken with the officer, and the only thing they are told is a Cambridge Police Officer posted this online. This can be very damaging to the Department, as it can appear that Officer Hussey’s post represents the thoughts and beliefs of the majority of Cambridge Police Officers.

Officer Hussey worked in SIU and as part of his duties and responsibilities offered services to people who suffer from substance use disorder. In his PSU interview, he acknowledged he never called any of these people suffering from substance use disorder a “druggie” to their face, as it would be unprofessional to do so. In his P650 Report, Officer Hussey wrote that he is “100% in favor of police reform” and also noted in reference to George Floyd, “Regardless of his background, he deserved to be treated with respect and with no more force than was necessary to

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gain compliance with lawful orders.” Officer Hussey did not treat George Floyd with respect by calling him a “career criminal, a thief and a druggie.”

It is unfortunate Officer Hussey did not mention his work providing services to individuals with substance use disorder, or his support of police reform in Exhibit 4 to provide additional context to his actions and beliefs. What was posted, while the officer was on duty, led a member of the community to interpret the post as being inappropriate and notified the NAACP of Cambridge. This Association also found it to be inappropriate for a police officer to post, and subsequently brought it to the attention of the Department.

Findings:

1. Cambridge Police Department Rules and Regulations
Chapter 2, Section III, Paragraph B

The following acts by a member of the Force are prohibited: Courtesy, rudeness, or insolence to any member of the public.

SUBSTANTIATED

Basis: Officer Hussey’s Facebook post on February 25, 2021, concerning George Floyd offended a member of the community who then showed the Facebook post to the NAACP of Cambridge. The NAACP of Cambridge also found the Facebook post offensive and brought it to the attention of the Department.

2. Cambridge Police Department Policies & Procedures
No. 212 Internet, E-mail, & Computer Usage
Section V, Paragraph D

Recognizing that personnel do have electronic devices, namely personal mobile phones which have a variety of capabilities, there may be certain applications they may use as long as it is used in the furtherance of official duties, or as allowed by this and other policies.

SUBSTANTIATED

Basis: Officer Hussey was on duty on February 25th at approximately 8:00AM when he posted Exhibit 4 on Facebook. The post was made using the officer’s personal electronic device, his cell phone. There is nothing in the officer’s official duties which involve posting news articles about police reform and his thoughts about it.

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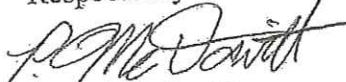
3. Cambridge Police Department Policies and Procedures
Policy 230, Section V, Paragraphs A, Part 1
Addressing Bias-based Policing

As a means of offsetting and preventing inappropriate perceptions of biased law enforcement, each officer is expected to adhere to following protocols whenever engaging the general public: Be courteous and act professionally at all times.

SUBSTANTIATED

Basis: Officer Hussey's Facebook post in question is discourteous and unprofessional. The post gives the impression the officer does not believe in rehabilitation and is disrespectful of people suffering from substance use disorder. This post can be interpreted that the Cambridge Police have a bias against people who have committed felony crimes or have a substance use disorder.

Respectfully Submitted,



Philip McDavitt
Lieutenant of Police
Professional Standards Unit

EXHIBIT 3

In the Matter of:
Brian Hussey vs
City of Cambridge, et al.

Branville Bard

February 07, 2023

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Brian Hussey vs
City of Cambridge, et al.

Branville Bard
February 07, 2023

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A P P E A R A N C E S

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ON BEHALF OF THE PLAINTIFF, BRIAN HUSSEY:

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ALSO PRESENT:

BRIAN HUSSEY, PLAINTIFF
MCCRAE NISTAD, LICHTEN & LISS-RIORDAN, P.C.

Brian Hussey vs
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February 07, 2023

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6 The deposition of DR. BRANVILLE BARD was taken remotely via
7 Zoom from Baltimore, Maryland on Tuesday, the 7th day of
8 February, 2023 at 9:15 a.m., said deposition was taken pursuant
9 to Notice for use in accordance with Federal Rules of civil
10 Procedure.

11

12

13 It is agreed that Kelley K. Bohan, being a Notary Public
14 and Court Reporter for the State of Massachusetts, may swear the
15 witness remotely and that the reading and signing of the
16 completed transcript by the witness is not waived.

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Brian Hussey vs
City of Cambridge, et al.

Branville Bard
February 07, 2023

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P R O C E E D I N G S

2

COURT REPORTER: We are on the record. This is Kelley Bohan. I am a court reporter, and I am a notary public in the Commonwealth of Massachusetts.

5

This deposition is being taken remotely. This witness is appearing remotely from Baltimore, Maryland.

7

The attorneys participating in this proceeding acknowledge their understanding that I am not physically present in the proceeding room, nor am I physically present with the witness and that I will be reporting this proceeding remotely. They further acknowledge that, in lieu of an oath administered in person, the witness will verbally declare his testimony in this matter under the pains and penalties of perjury. The parties and their counsel consent to this arrangement and waive any objections to this manner of proceeding.

16

Please indicate your agreement by stating your name and your agreement on the record, after which I will swear in the witness and we may begin.

19

MR. LICHTEN: Harold Lichten, yes.

20

MS. KLEIMOLA: Kate Kleimola, yes.

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2

DR. BRANVILLE BARD

3

having been duly sworn, was examined and
testifies as follows:

5

6

DIRECT EXAMINATION

7

BY MR. LICHTEN:

8 Q. Okay, Dr. Bard, my name is Harold Lichten. I think
9 I've taken your deposition one time before. I'm going to ask
10 you some, a couple of questions about Mr. Hussey's case. I plan
11 to be done in a fairly short time. If for any reason you don't
12 understand any of my questions, you don't have to answer them,
13 just tell me and I will repeat that --

14 MS. KLEIMOLA: Attorney Lichten, just before you start
15 questioning, can I assume that all objections are reserved
16 except for as to form?

17 MR. LICHTEN: Yes. And does the witness want to read
18 and sign before a notary or we'll waive the notary, you know, is
19 there a reading and signing?

20 MS. KLEIMOLA: Yes, I think that makes sense.

21 MR. LICHTEN: Okay.

22 BY MR. LICHTEN:

23 Q. Okay, can you state your full name for the record
24 please, sir?

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1 A. My name is Branville Bard, that's B-R-A-N-V-I-L-L-E
2 B-A-R-D.

3 Q. Okay. And your current title is what?

4 A. I am vice president for public safety, Johns Hopkins
5 University of Medicine.

6 Q. Okay. And what are your duties in that regard?

7 A. I'm responsible for ensuring the safety, for public
8 safety at all of Johns Hopkins' institutions, both university
9 and medicine, in the world with the exception of the applied
10 physics lab.

11 Q. Okay. Someday I'll ask you why it doesn't apply to
12 the physics lab but not today.

13 Prior to the current position that you hold, you were
14 with the City of Cambridge; is that correct?

15 A. Yes. Prior to accepting the position at Johns
16 Hopkins, I was the police commissioner for the City of
17 Cambridge, Massachusetts.

18 Q. Okay. And prior to that, you were at the Philadelphia
19 Housing Authority; is that right?

20 A. Prior to becoming police commissioner for the City of
21 Cambridge, I was the chief of police and director of public of
22 safety for the Philadelphia Housing Authority Police Department.

23 Q. Okay. How long were you at the Philadelphia Housing
24 Authority, from what year to what year?

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1 A. From 2015 to -- from February of 2015 to August of
2 2017, so approximately two and a half years.

3 Q. Okay. So you went to Cambridge directly from
4 Philadelphia?

5 A. Yes.

6 Q. Okay. And I want to ask you some questions about the
7 structure of the Cambridge Police Department. I know you were
8 considered to be the police commissioner, is that the same or
9 different than the police chief title that I'm familiar with
10 across Massachusetts?

11 A. It's different in construction, but it's the same for
12 structural purposes.

13 Q. Okay. For example, in the City of Cambridge, who was
14 the appointing authority considered to be for the Cambridge
15 police officers and employees?

16 A. The city manager is the appointing authority in the
17 City of Cambridge.

18 Q. Okay. And with respect to discipline, did he have
19 final authority over discipline of any Cambridge police
20 officers?

21 A. As the appointing authority, the city manager has
22 final authority of discipline over all city employees.

23 Q. Okay. Now, what about discipline of less than -- I'm
24 sorry -- suspensions of less than five days; at the time, did

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1 you have authority to suspend for less than five days under the
2 civil service law?

3 A. It's my understanding that the city manager is the
4 final authority.

5 Q. Okay. And with respect to discipline, did you make
6 recommendations to him or how did that work?

7 A. Yes, I made recommendations.

8 Q. Okay. And were any of your recommendations regarding
9 discipline, in the time you were there, that you made to the
10 city manager ever not followed by the city manager?

11 A. Off the top of my head, I don't recall any not being.

12 Q. And the city manager at the time was Louis DePasquale?

13 A. Yes.

14 Q. Was he the city manager the whole time that you were
15 there?

16 A. Louis DePasquale was the city manager for my entire
17 tenure.

18 Q. Okay. Now, in your capacity as police commissioner,
19 did you have authority for placing individuals on administrative
20 leave when an issue of possible discipline came up?

21 A. Yes.

22 Q. Okay. And were you able to do that on your own
23 authority, or did you have to seek approval to simply place
24 someone on administrative leave?

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1 A. I believe as the appointing authority, the city
2 manager retains all those rights. And in some cases, he divests
3 that authority. But I -- There were several instances where I
4 had to place an individual on administrative leave, and that was
5 in conjunction with the, whatever, the collective bargaining
6 agreement.

7 Q. Okay. Now, when a complaint was made against an
8 officer or a superior officer during the time that you were
9 commissioner, did you always place that person on administrative
10 leave just by reason of the complaint, or did you have the
11 discretion not to place the officer on administrative leave
12 while any matter was being investigated?

13 A. A complaint in and of itself did not trigger an
14 assignment to administrative leave.

15 Q. Okay. Then what would or would not trigger the
16 placement of administrative leave; and who would make that
17 recommendation or decision?

18 A. It would depend on the nature and severity of the
19 alleged complaint, and I would initially make the recommendation
20 if it was a police department employee.

21 Q. Okay. I'd like to ask you just the names of some
22 people. Can you tell me who James Mulcahy is, please?

23 A. Can you repeat that?

24 Q. Yes, sorry. Can you tell me whom James Mulcahy is?

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1 A. Yes, James Mulcahy is -- well, he was the director of
2 the Professional Standards Unit. He's an attorney who works for
3 the Cambridge Police Department, and I assigned him --

4 Q. Okay. So he --

5 Go ahead, sorry.

6 A. And I assigned him as the head of Professional
7 Standards at some point during my tenure there.

8 Q. Okay. So he was a non-uniformed officer -- a
9 non-uniformed employee of the City of Cambridge Police
10 Department?

11 A. He was a non-sworn employee who -- in that capacity,
12 he was not uniform, yes.

13 Q. Okay. And for some reason, the video, I can only see
14 half of your face, so I can't see you talk. I can only see your
15 eyes. If you could lower it?

16 A. Sorry about that.

17 Q. It's a little disconcerting. That's much better,
18 right there.

19 A. How about now?

20 Q. That's good, perfect.

21 what about Lieutenant Philip McDavitt, who is he?

22 A. Lieutenant --

23 And I'm leaning forward to hear you better. For some
24 reason you're coming in real low.

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1 Q. All right, all right, I'm going to try to make myself
2 louder.

3 A. Okay. Philip McDavitt was a lieutenant. At that
4 time, he was assigned to the Professional Standards Unit.

5 Q. Okay. And so what were his job duties and how was he
6 related to Mr. Mulcahy at that time?

7 A. So he, Lieutenant McDavitt, was assigned to
8 Professional Standards. He reported to the director, who was
9 Jim Mulcahy, and he was responsible for conducting
10 investigations in the Professional Standards Unit.

11 Q. Okay. And did Mr. McDavitt get a promotion or leave
12 that position at some point in time?

13 A. I'm not certain. I don't -- I don't recall him being
14 promoted out of that position.

15 Q. Okay. When you left, he was still there?

16 A. That's my belief, yes.

17 Q. Okay. And what was the date you actually left the
18 Cambridge Police Department?

19 A. The exact date, it was in August of 2021, but I'm not
20 sure of the exact day.

21 Q. Okay. Okay. And there was a Deputy Superintendent
22 Albert, you knew him; is that correct?

23 A. Deputy Superintendent Jack Albert became
24 Superintendent Jack Albert while I was there, yes.

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1 Q. Okay. And then he retired at some point in time?

2 A. Yes.

3 Q. Okay. Was that in 2021?

4 A. I don't recall what year he retired.

5 Q. Okay. But he was a superintendent while you were
6 there?

7 A. He was.

8 Q. Okay. Did he receive any discipline in his -- while
9 you were there?

10 A. He did.

11 Q. And what was the discipline he received?

12 A. If I'm not mistaken, a five-day suspension.

13 Q. And when was that?

14 A. I don't recall.

15 Q. Was that before or after the incident involving Brian
16 Hussey, if you know?

17 A. I believe it happened before the Hussey incident. I'm
18 nearly certain it did.

19 Q. And did he end up, if you know, did he end up serving
20 any of those suspension days?

21 A. I don't recall. But he was suspended for five days.

22 Q. Okay. Well, normally if you're suspended for a
23 certain number of days, you can't work those days and you don't
24 get paid for them; is that correct?

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1 A. It depends on agency's rules and practices.

2 Q. Okay. Well, I'm just talking about Superintendent
3 Albert. Now, is it true that Superintendent Albert did not lose
4 any pay, he simply forfeited some vacations days, if you know?

5 A. I don't recall, but that's a possibility.

6 Q. Okay. Now, was Superintendent Albert ever placed on
7 administrative leave?

8 A. I don't remember.

9 Q. As you sit here today, you don't remember placing him
10 on administrative leave; is that correct?

11 A. I don't remember placing him on administrative leave.
12 I'm not saying that I didn't, I'm telling you I don't remember.

13 Q. Okay, fair enough. Now, Superintendent Albert was
14 suspended because he posted something on the Cambridge Police
15 Department's official Twitter page; is that right?

16 A. That's correct.

17 Q. And it was a very derogatory statement about two
18 elected officials in Massachusetts; is that right?

19 A. It was disparaging remarks about elected officials,
20 yes.

21 Q. And there was a lot of media and public reaction to
22 that; is that correct? It was in the newspapers and a lot of
23 stories about it; is that right?

24 A. There was media attention.

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1 Q. Okay. Now, when did you first hear anything about
2 Brian Hussey?

3 A. You'll have to be more specific.

4 Q. Yeah, sure, that was a bad question. Let me go back
5 and ask you something else. As I understand it, you yourself
6 have been on Twitter for a number of years; is that correct?

7 A. I have a Twitter account.

8 Q. Okay. Well, I went -- I looked at your Twitter
9 account the other day, and it looks to me that you have Twitter
10 messages going back to 2016, 2017 at least; is that right?

11 A. I have a Twitter account.

12 Q. Okay. Well, do you know how often you posted on the
13 Twitter account?

14 A. I don't.

15 Q. Okay. And your Twitter account was not set on private
16 settings; is that right?

17 A. As I sit here, I don't know what my Twitter account is
18 set on.

19 Q. And on your Twitter account you posted a number of
20 things, sometimes about current events; is that right?

21 A. I've posted on Twitter.

22 Q. Okay. Well, do you recall posting on Twitter about
23 defunding the police?

24 A. I don't.

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1 Q. Being against it. I don't mean for it, I mean being
2 against that. Do you remember doing that?

3 A. I don't.

4 Q. Okay. Do you remember posting about police
5 departments being under attack in the media?

6 A. I don't.

7 Q. Do you remember posting about the George Floyd
8 incident?

9 A. Not specifically.

10 Q. Okay. Do you recall being interviewed by NBC, a local
11 NBC affiliate, talking about the fact that racism permeates all
12 aspects of our lives?

13 A. Not specifically.

14 Q. Okay. But there was no rule in the Cambridge Police
15 Department that prohibited officers or employees in the City of
16 Cambridge from posting on social media; is that correct?

17 A. Not a blanket prohibition against using social media,
18 no. Prohibitions against using social media for
19 non-work-related purposes during work times, yes, but not a
20 blanket prohibition.

21 Q. That is someone could maintain a social media
22 presence, either on Twitter or Facebook or Instagram or Truth
23 Social, and that was permissible in the Cambridge Police
24 Department; is that right?

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1 A. Your question is whether having a social media
2 account, it was permissible under Cambridge Police Department
3 rules?

4 Q. Yes.

5 A. And the answer is yes.

6 Q. And did the police department do anything to monitor
7 the accounts of individuals?

8 A. No, not that I'm aware of.

9 Q. Okay. You never authorized that; is that correct?

10 A. The monitoring, the blanket monitoring of social media
11 accounts?

12 Q. Yes.

13 A. No.

14 Q. Okay. And I may butcher this name, but did you know a
15 Frank Greenidge?

16 A. Who?

17 MR. LICHTEN: Ben, did I butcher that name?

18 MR. WEBSTER: No, I think you -- He said Frank
19 Greenidge.

20 Q. Frank Greenidge.

21 A. Yes.

22 Q. Yes, you knew Frank Greenidge?

23 A. I believe that individual, that's the same name as a
24 Cambridge police officer.

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1 Q. Okay. It is. And did you know that he maintained a
2 Facebook page?

3 A. I did not.

4 Q. Okay. Do you know what being a "friend" on social
5 media is, is that correct, a Facebook friend?

6 A. I know what being a Facebook friend means, yes.

7 Q. Okay. Were you a Facebook friend with any individuals
8 in the Cambridge Police Department?

9 A. I believe I was a Facebook friend with any individual
10 who sent me a request from Cambridge Police Department.

11 Q. Okay. And does that include Mr. Greenidge?

12 A. I think so, but I'm not a hundred percent sure.

13 Q. Okay. So your best recollection is that you were a
14 Facebook friend with Mr. Greenidge -- Officer Greenidge; is that
15 correct?

16 A. I think so, but I'm not certain as I sit here.

17 Q. Okay. And did you ever look at any of his Facebook
18 posts?

19 A. I'm not aware.

20 Q. So as you sit here today, is your answer you don't
21 remember if you looked at any of his Facebook posts or you don't
22 know or what --

23 A. I think my best answer would be I think I may -- I
24 think have looked, saw some of his posts.

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1 Q. Okay. Now, do you remember that he was a pretty
2 prolific writer or messenger on Facebook, that he would post a
3 lot of stuff?

4 A. That is not my knowledge or understanding of his
5 Facebook activity.

6 Q. Okay. Did you know he posted about alleged
7 conspiracies and about President Trump being an idiot and unfit
8 for office and things like that, were you aware that he posted
9 that, those things, on his Facebook page?

10 A. I did not. I was not aware.

11 MR. LICHTEN: Hold on, I'm just getting another
12 document. [Pause.] Okay, Ben, if you could put on the screen
13 Exhibit 4, and we'll mark this as Exhibit 1.

14 MR. WEBSTER: Yes, just give me a second. [Pause.]
15 Is this correct, Harold?

16 MR. LICHTEN: Yes.

17 (EXHIBIT 1 MARKED FOR IDENTIFICATION)

18 MR. LICHTEN: Just can you scroll down a little so we
19 can see the faces on there.

20 MS. KLEIMOLA: Can you also e-mail that to me?

21 MR. LICHTEN: Yes, absolutely. McCrae, can you do
22 that? Oh, I don't know if McCrae is there.

23 BY MR. LICHTEN:

24 Q. Do you remember an article that had your very handsome

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1 picture in it for the Cambridge Day, which I guess is a local
2 newspaper?

3 A. I don't.

4 Q. Okay. Well, that is you in the photograph; is that
5 right?

6 A. It is.

7 Q. Okay. And the person to your left is who?

8 A. Superintendent Jack Albert.

9 Q. And that's on his retirement?

10 A. It is.

11 Q. Okay. And you provided him with an award of some
12 type?

13 A. That's a clock that is customary to be given out to
14 retirees in the Cambridge Police Department.

15 MR. LICHTEN: Okay. Ben, can you scroll down, further
16 down the article? Keep going. Keep going. Okay, stop there.

17 BY MR. LICHTEN:

18 Q. According to this article, there was a tweet by the
19 Cambridge police union that caused some furor; do you recall
20 that tweet?

21 A. I don't.

22 Q. You don't recall it?

23 A. I don't.

24 Q. Okay. So just to, according to this article, it says:

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1 "The Cambridge Police Patrol Officers Association tweeted in
2 July about a reform bill" -- and this is a quote -- "If you
3 think seven civilians killed in seven days in Boston is bad,
4 just wait for the purge that will come," end quote, and that
5 they then deleted it. Do you see that? Do you see that quote?

6 A. I do.

7 Q. Is it your testimony here today that you don't recall
8 that at all, that incident at all?

9 A. Reading that just jogged my memory of it now, yes.

10 Q. Okay. So you do recall it?

11 A. I do.

12 Q. Okay. Did you take any action to suspend,
13 investigate, place on administrative leave, or otherwise
14 discipline anyone for that tweet?

15 A. You mean did I take action against the union for
16 engaging in --

17 Q. No, no, not against the union, against anyone involved
18 with the union who may have been responsible for posting that
19 tweet.

20 A. I don't recall whether an investigation was opened up
21 into that.

22 Q. Okay. But didn't that concern you that it was
23 possible that a Cambridge police officer was talking about a
24 purge and deaths that would come if a bill didn't pass, that

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1 didn't concern you?

2 A. The tweet is concerning, but I don't recall whether I
3 opened up an investigation into the union activity.

4 Q. Okay. So as we sit here today, you're not aware of
5 whether an officer in the Cambridge Police Department wrote that
6 tweet or not and posted it; is that right?

7 A. I don't recall whether I opened up an investigation
8 into it.

9 Q. Okay, fair enough. And then, according to this
10 article, there was another incident where a dispatcher in the
11 department allegedly said, quote, "we don't live in a Communist
12 country yet" in defending someone who -- a Cambridge Police
13 Department employee who wasn't wearing a mask during the
14 pandemic. Do you remember that incident?

15 A. I don't.

16 Q. So as you sit here today, this is the first time
17 you've heard of that?

18 A. Oh, I'm absolutely not saying that. I'm saying you
19 asked me do I remember, and I'm telling you I don't.

20 Q. Okay, let me just make sure I understand. So your
21 testimony is you just don't remember that incident one way or
22 another; is that your testimony?

23 A. That's my testimony.

24 Q. Okay, fair enough. And then it also says in here that

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1 the Cambridge Police Department is investing a police lieutenant
2 that had, quote, "deeply disturbing" -- Let me just, I'll just
3 read the quote.

4 "And in September, department officials said they were
5 investigating social media posts by a Cambridge Police
6 Department lieutenant that were 'deeply disturbing' in their
7 praise of political violence?"

8 Do you see that?

9 A. No. Tell me where you're at?

10 Q. Sure.

11 MR. LICHTEN: Can you show with the cursor, Ben, where
12 it is?

13 MR. WEBSTER: [Complies with request.]

14 THE WITNESS: Okay, I see it.

15 BY MR. LICHTEN:

16 Q. Do you recall this incident?

17 A. I think I recall what it's referring to, yes.

18 Q. Okay. And what is it referring to?

19 A. If I'm correct, a lieutenant who had been out on leave
20 for quite sometime, last name Lynch, made a concerning state--
21 post, made a concerning post. And that was investigated by
22 Professional Standards.

23 Q. Okay. And was there a report issued on that?

24 A. So I don't remember. He was out on extended leave,

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1 which made it difficult to conduct that investigation, and
2 that's all I remember about that.

3 Q. Well, do you remember him being formally disciplined
4 in any way?

5 A. Once again, I don't remember. I don't recall because
6 he was out on extended leave, and I don't -- I don't remember
7 the disposition of that case.

8 Q. Well, do you remember if there was an investigative
9 report written and what the findings of that report were?

10 A. I don't remember the disposition of that case.

11 Q. Okay. And when you say the individual was out on
12 leave, was he out on a disability or work-related injury leave,
13 if you recall?

14 A. If you're saying work-related injury, I don't believe
15 he was out on a work injury on duty or --

16 Q. Do you think he was out on sick leave at the time?

17 A. I think that might be more akin to why he was out, but
18 I honestly don't recall the exact reason for his extended leave.

19 Q. But as you sit here today, you don't recall taking any
20 formal disciplinary action against him?

21 A. I very well may have, but honestly I don't remember
22 the disposition of that.

23 Q. Okay.

24 MR. LICHTEN: Ben, can you go to Exhibit 1, which will

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1 be Exhibit 2 for purposes of this deposition.

2 (EXHIBIT 2 MARKED FOR IDENTIFICATION)

3 BY MR. LICHTEN:

4 Q. I'm just going to put a report up on the screen that I
5 think you'll recognize.

6 At some point in time, do you recall becoming aware
7 that there was some issue with respect to Brian Hussey and a
8 Facebook post that he made?

9 A. Yes.

10 Q. Okay. And how did you first become aware of it?

11 A. So I was contacted by one of the officers of the NAACP
12 Cambridge, Richard Harding. And I don't remember which office
13 he was holding, whether he was the president or vice president
14 or whatever. But he said that he needed to talk to me and the
15 city manager, uh, urgent, and --

16 Q. Okay. And that was Mr. Barbosa?

17 A. No, I believe it was Richard Harding who first
18 contacted me.

19 Q. Richard Hardy?

20 A. Harding, H-A-R-D-I-N-G.

21 Q. Okay. And you believe he held an office with the
22 NAACP?

23 A. Yes.

24 Q. Okay. And that was a phone call?

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1 A. I hate to say that I could be conflating these things,
2 but I don't remember exactly how he reached out.

3 Q. Okay. That was the first you heard of anything; is
4 that correct?

5 A. I believe it was, yes.

6 Q. And that was in March?

7 A. I believe so, early March, yes.

8 Q. Okay. So he said he wanted to talk to you and the
9 city manager, did that happen, did that discussion take place
10 either over the phone or by Zoom or in person?

11 A. It did by Zoom.

12 Q. Okay. And do you know, did you take notes of that
13 meeting?

14 A. I don't think I did.

15 Q. Okay, but there was a meeting. And who was at that
16 meeting?

17 A. If my memory is correct, it was: myself; the city
18 manager, Louis DePasquale; it was Richard Harding from the
19 NAACP; it was former Mayor Ken Reeves, uh, former Cambridge
20 Mayor Ken Reeves, who was also an officer with the NAACP
21 Cambridge; and then, I believe, also Mo Barbosa.

22 Q. And Mr. Barbosa is a community activist in Cambridge;
23 is that right?

24 A. In the Cambridge-Boston region, yes.

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1 Q. Okay. And what, if anything, did they tell you?

2 A. They informed me of a post that referenced an article
3 about the police reform bill named in honor of George Floyd, and
4 that it was brought to their attention that one of my officers,
5 Officer Brian Hussey, made some disparaging comments both about
6 George Floyd as a person and about individuals who suffer from
7 substance use disorder.

8 Q. Okay. Was anyone else from the Cambridge Police
9 Department present?

10 A. Not that I remember.

11 Q. And how long did the meeting last?

12 A. I'm not certain.

13 Q. Okay. Did you call Officer Hussey or the union in to
14 get his side of the story at the time?

15 A. No, I wouldn't have done that.

16 Q. Okay. What did you do?

17 A. I asked for them to make a copy of the article or the
18 post available to me, and then I forwarded it to Professional
19 Standards and asked them to open up an investigation.

20 MR. LICHTEN: Okay. So let me see if I can go to
21 Exhibit 5, which will be Exhibit 3.

22 (EXHIBIT 3 MARKED FOR IDENTIFICATION)

23 BY MR. LICHTEN:

24 Q. So this appears to be an e-mail from Mr. Barbosa to

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1 you and Mr. DePasquale and posing the post; is that right?

2 A. Yes.

3 Q. Okay. He doesn't cc anyone else from the NAACP, but
4 you're saying those other two people were there; is that right?

5 A. Yes, that's my belief. And, like I said, I hope I'm
6 not conflating meetings, but I'm pretty certain that that's the
7 way that -- well, that's my best recollection.

8 Q. Okay. And then got that and gave that to the police
9 standards, you sent it to the police standards division; is that
10 right?

11 A. Professional Standards Unit, yes.

12 Q. Professional Standards, sorry. And did you then place
13 Hussey on administrative leave?

14 A. I'm not certain when he was placed on administrative
15 leave, even if he was placed on administrative leave.

16 Q. So as you sit here today, you don't recall placing him
17 on administrative leave in early March?

18 A. I don't recall.

19 Q. Okay. So I just want to be clear: So as you sit here
20 today, your testimony is that you don't recall placing him on
21 administrative leave up through the time he received a
22 suspension eight weeks later?

23 A. Yeah, I don't.

24 Q. Okay. [Pause.] Sorry about that.

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1 So then you asked Mr. McDavitt to do an investigation?

2 A. Not directly.

3 Q. What did you do?

4 A. I instructed the Professional Standards Unit to
5 conduct an investigation --

6 Q. Okay.

7 A. -- not to any particular investigator.

8 Q. Okay. In this meeting, what did Mr. Barbosa,
9 Mr. Reeves, and the other individual there, what did they tell
10 you about the post? What were they upset about?

11 A. The fact that it was a Cambridge employee, a Cambridge
12 Police Department employee who made the post. The former mayor
13 is very verbose, and I remember his language -- and I'm
14 paraphrasing -- but, you know, basically, he said that that
15 very post called into question our ability to serve in a
16 biased-free manner that we purport to embody, is like the
17 verbiage he used.

18 Q. Okay. And did you read the post?

19 A. I did.

20 Q. Okay. Now, what did you understand the post, the
21 points that Brian Hussey was making in the post?

22 A. Your question is what?

23 Q. What did you understand the point was of Brian
24 Hussey's post or Facebook post, what was he trying to express;

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1 what was your understanding?

2 A. So it was, the article was about, I believe it was a
3 House bill about police reform in the name of George Floyd. And
4 so his comments above the article were, you know, we're honoring
5 a career criminal, a thief, and a druggie and --

6 Q. Okay.

7 A. -- he believed the outlook for the country was bleak.

8 Q. So you understood that his concern was the fact that a
9 bill, a police reform bill would have George Floyd's name on it,
10 not some police hero or something like that? Did you understand
11 that he wasn't complaining about what happened? He wasn't in
12 any way affirming what happened to George Floyd, that he was
13 just concerned with naming a bill after someone who had a
14 criminal record; did you understand that?

15 A. I understood that the post caused many to call into
16 question the department's reputation. I understood that the
17 post was disparaging against individuals, a specific individual,
18 George Floyd. I understood that the post was insensitive to
19 individuals who've suffered from substance use issues. Yeah, I
20 understood that the post was damaging to the reputation of the
21 Cambridge Police Department.

22 Q. Okay. Well, you said many were concerned. The only
23 persons who spoke to you were three people from the NAACP; is
24 that correct?

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1 A. I believe that only two of them were from the NAACP.

2 Q. Okay. No one from the public, no one from the public
3 ever called to complain about this; is that correct?

4 A. Oh, I'm not sure if anyone ever called to complain
5 about it. I think --

6 Q. Do you know how long the post was up for?

7 A. I know that it was less than an hour old when someone
8 screenshot it and sent it to the NCAAP, who then brought it
9 directly to me, with the distinct, uh -- their whole purpose was
10 to shield the identity of whoever brought the post to their
11 attention. And they asked that -- they made sure that they
12 wanted to protect the source of it. But within 52 minutes or 57
13 minutes, I can't remember exactly, of Hussey posting that on
14 Facebook, it was screenshot and then disseminated elsewhere. If
15 your question was how long was it up in total, I don't know.

16 Q. Do you know what the Facebook settings were of the
17 post?

18 A. Oh, I don't know. But I think it's in the
19 investigation. But as I sit here, I don't recall.

20 Q. Okay. Now, let me ask you this: So would you agree
21 that one of the points Officer Hussey was making was that he
22 didn't think the bill, a police reform bill, should be named
23 after someone who had a criminal record; whether you agree with
24 that or not, did you understand that that was one of the points

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1 he was making?

2 A. Listen, I felt that the post ran a risk of doing
3 irreparable harm to the department's reputation.

4 Q. Okay, but that wasn't my question. My question was
5 did you understand that that was the point he was trying to
6 make, that you shouldn't name a police reform bill after someone
7 with a criminal record?

8 A. I answered your question.

9 Q. All right. Do you know what George Floyd's criminal
10 record was?

11 A. I don't.

12 Q. Did you know whether he had a long criminal record?

13 A. I personally haven't seen his record. I've heard it,
14 his record, described.

15 Q. Do you know who Paul Upton is?

16 A. The name sounds familiar, but I don't recall who he
17 is.

18 MR. LICHTEN: Okay. Ben, can you put up Exhibit 2,
19 which will be Exhibit 4 for this deposition.

20 (EXHIBIT 4 MARKED FOR IDENTIFICATION)

21 BY MR. LICHTEN:

22 Q. Let me ask you first: Do you recognize Paul Upton as
23 being a Somerville police deputy superintendent?

24 A. I don't.

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1 Q. Okay. So as you sit here today, you don't know who
2 Paul Upton is?

3 A. I just answered your question, I don't.

4 Q. Okay, okay, fair enough. And I'd like to ask you --
5 I'll represent to you that this was a post that happened around
6 the same time on Facebook on Paul Upton's Facebook. He is a
7 Somerville deputy. And I'd like you to read this post and then
8 I'm going to ask you a question about it.

9 MR. LICHTEN: And you're going to have to scroll down
10 a little bit.

11 A. [Pause.] I'm finished reading.

12 Q. Okay. So in this post, Deputy Upton from Somerville
13 is saying that he doesn't think it's proper to honor someone who
14 has a criminal record by naming a federal police reform bill
15 after him. Do you agree or disagree with what Deputy Upton is
16 saying?

17 MS. KLEIMOLA: Objection, relevance.

18 Q. You may answer.

19 A. What did you say?

20 Q. I said do you agree or disagree with the point that
21 Deputy Upton is making in his post?

22 A. Deputy Upton, to my knowledge, was never a member of
23 the Cambridge Police Department, and I'm concerned with how
24 posts by members of the Cambridge Police impacted the

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1 department's reputation and our ability to maintain trust and
2 legitimacy with the community.

3 Q. Okay, well, that wasn't my question. My question is
4 whether you agree or disagree with the point he's making in this
5 post. I'm not asking you about the reputation of the Cam--

6 A. I'll tell you this, if I was the chief of police or
7 police commissioner for the Somerville Police Department or
8 whatever department he represents, I would have a problem with
9 him making that post.

10 MR. LICHTEN: Okay. If we can go back to Exhibit 1?

11 MR. WEBSTER: Are you talking about the report?

12 MR. LICHTEN: Yes.

13 BY MR. LICHTEN:

14 Q. Okay. Now, did you read this report and take any
15 action on it? I'm showing you the report to Mulcahy from
16 McDavitt, "Final Report of Investigation" dated April 14th,
17 2021. Do you remember getting a copy of this report?

18 A. Yes.

19 Q. Okay. And did you review the report?

20 A. I would have, yes.

21 Q. Okay. And did you ever call Mr. Hussey in to get his
22 side of the story, ask him about it?

23 A. Professional Standards would have done that.

24 Q. Okay. Did Professional Standards, to your knowledge,

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1 call in any of the individuals that you met with, Mr. Barbosa or
2 any of those individuals, to interview them and get their side
3 of the story, if you know?

4 A. I believe that they contacted those individuals, but
5 I'm not certain of who and when and how long.

6 Q. Well, I didn't see anything in here about that. It
7 says "persons interviewed" and it says "Brian Hussey," right?

8 A. If that was the only person interviewed, then the
9 report --

10 Q. Well, I don't want to put words in your mouth.

11 MR. LICHTEN: Will you go to that, Ben. It's "persons
12 interviewed." There it is.

13 A. I'll admit that the report is a more accurate
14 reflection of who was actually interviewed by Professional
15 Standards.

16 Q. Okay. So it says "Persons Interviewed: Brian Hussey,"
17 so that suggests that this entire investigation consisted of
18 just interviewing Brian Hussey; is that right?

19 A. Yes.

20 Q. So how would you know that there were people in the
21 community who were offended by this article or somehow the
22 reputation of the Cambridge Police Department had been impaired
23 if there were no interviews by Professional Standards of people
24 making that point?

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1 A. Are you serious? I literally was given that report by
2 the NAACP. I was given the Facebook post by the president and
3 vice president, or whatever office they held, of the NAACP for
4 Cambridge. They brought it to me as being concerned. They're
5 members of the community. And they were -- they didn't happen
6 across that post, they were sent that post. So --

7 Q. Who sent that post?

8 A. Excuse me --

9 Q. You're making a point that there was concern in the
10 community, who sent that post to them?

11 A. -- can I finish my answer?

12 Q. Yes, go ahead.

13 A. I'm distracted now, so we can move on. I can't
14 remember what --

15 Q. Okay. Who sent the post to the person at the NAACP,
16 if you know?

17 A. I already explained in a prior answer that I don't
18 know because they wanted to protect the interest of whoever, the
19 identity of who sent that post to them.

20 Q. Did you think it would have been appropriate to
21 interview other people in connection with this so-called
22 investigation?

23 A. The post speaks for itself.

24 Q. Okay, well, it does. Okay. Now going back to this

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1 article.

2 A. We're going back to the --

3 Q. To this report, excuse me, to this report. Okay, so
4 in this report it says on the second or third page, it says
5 "Officer Brian Hussey P650 Report."

6 MR. LICHTEN: Can you turn to that, Ben?

7 MR. WEBSTER: I'm there.

8 BY MR. LICHTEN:

9 Q. Now, did you read this, Dr. Bard?

10 A. Did I read this report that's in front of me? Yes.

11 Q. Yes, yes.

12 A. [Pause.] I'm sorry, are you asking me to read it now,
13 or are you asking me --

14 Q. No, no, have you read it?

15 A. Yeah, I think I've answered yes, I have.

16 Q. Okay. Were you aware that Hussey grew up in
17 Cambridge, went to integrated schools, played sports, got along
18 well with the neighborhood; were you aware of that?

19 A. I'm aware that I read it in the report, yes.

20 Q. Okay. And you were aware that on the day in question
21 at 8:08 a.m. he was at home; is that correct?

22 A. I was made aware of that.

23 Q. Okay. And as I understand it, he had, because of the
24 pandemic, there were these things called "training days" for

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1 which an officer did not have to show up for work but had to
2 complete certain training modules on a computer; is that right?

3 A. Officers had to complete modules on a computer, yes.

4 Q. Okay. And were you aware that on this particular day,
5 Officer Hussey had completed his training modules because he did
6 them early?

7 A. I certainly wasn't aware of that. I became aware
8 during -- reading the report, yes. But at that time --

9 Q. Okay. And you had no reason to question that, right?

10 A. Had no reason to question what?

11 Q. You had no reason to question that he had finished his
12 training modules by that time?

13 A. No.

14 MR. LICHTEN: Okay. Now, if you could scroll down a
15 little further, Ben?

16 MR. WEBSTER: [Complies with request.]

17 BY MR. LICHTEN:

18 Q. Okay. According to this report, Officer Hussey said
19 that he was supportive of police reform; were you aware that he
20 said that?

21 A. I've read the report, and I'm aware that it's
22 contained in the -- in his memo.

23 Q. And do you have any reason to believe that that's not
24 truthful on his part?

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1 A. No.

2 Q. Okay. It also says that Hussey believed that what
3 happened to George Floyd was unjust. Mr. Floyd did not deserve
4 to die. That Officer Derek Chauvin and the other police
5 officers involved are a disgrace to the badge. Were you aware
6 that he said that during the investigation?

7 A. I wish that was the content of his Facebook post
8 because then we wouldn't be sitting here today.

9 Q. Because you think whether or not to take action
10 against someone depends upon whether you agree with what they
11 put in their Facebook post; is that what you're saying?

12 A. Of course not. My sole concern was the damage that it
13 did and the potential for damage that it had to threaten the
14 trust that the City of Cambridge and citizens would have in
15 their Cambridge Police Department, not whether I agree with the
16 content of a post. That content that you just pointed to would
17 have done nothing to erode the trust of the Cambridge Police
18 Department and the community at large.

19 Q. Okay. He goes on in his statement to say he did not
20 think it was appropriate to name a police officer reform bill
21 after George Floyd. Do you see that? Is that correct?

22 A. I see the last line of the second, the paragraph--

23 Q. Well, do you have any reason to believe that he did
24 not believe that? That's what he believed, right, that it was

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1 inappropriate to name that bill after George Floyd?

2 A. I don't know what Hussey believes and what he doesn't
3 believe. All I can tell you is the content of what he posted,
4 and what he posted was disparaging to George Floyd. It was
5 disparaging to members of the -- anybody who has ever had
6 substance use issues.

7 Q. What did he say about George Floyd that was
8 disparaging to people generally who have substance abuse issues?

9 A. He called him a thief and a druggie. The derogatory
10 term there being "druggie." We work closely with people who
11 suffer from substance use disorder and substance use issues.
12 And it's --

13 Q. Isn't a druggie someone who uses drugs regularly?

14 A. It's a dehumanizing term. And so, no, it's not
15 something -- it's not a terminology that we adopted. It's a
16 derogatory term.

17 Q. Did you think race played a role in officer Hussey's
18 post?

19 A. It did not appear to.

20 Q. That is you didn't believe that race played a role in
21 its post?

22 MS. KLEIMOLA: Objection, asked and answered.

23 Q. Is that what you said? I'm sorry, I just didn't hear
24 you.

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1 A. I said it didn't appear to.

2 Q. Okay. So is it the fact that he said the bill should
3 not be named after George Floyd or just use of the word
4 "druggie" that made you believe that he should be disciplined?
5 I guess what was it in the post specifically that made you think
6 he was deserving of discipline for his Facebook post?

7 A. It was the fact that it had negative connotations and
8 it tore at the fabric or trust that we spent a long time
9 building in the community. Folks viewed the Cambridge Police
10 Department as one who favors prevention, intervention, and
11 diversion over more serious or more punitive methods
12 traditionally associated with the criminal justice system. You
13 know, we pride ourselves on the fact that we believe that
14 individuals are better served through a social justice approach
15 than through your traditional criminal justice approaches. And
16 when you have that approach, that means that you're often
17 working hand in hand with individuals who have, you know, fallen
18 in life and are working towards better outcomes. Some of those
19 individuals have substance use issues.

20 Q. So that's what you got out of his post, that he was
21 taking a shot at all people with drug problems?

22 A. I took from the post that it was disparaging, it was
23 dehumanizing, and that it, particularly in the context of the
24 national climate, tore at the fabric of the trust that we spent

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1 a long time building. You know, the old saying trust takes a
2 lifetime to build and just a moment to tear down. Well, any
3 individual associated with the Cambridge Police Department could
4 in a moment tear down, you know, that trust we've spent a long
5 time building with community, and that post, you know, had the
6 potential to do that.

7 MR. LICHTEN: All right. Why don't we go off the
8 record for five minutes. I'll see if I have anything more for
9 you. So we'll take a five to ten-minute break, and then I
10 should be done pretty soon. Thank you.

11 (Whereupon, a break was taken from 10:14 a.m. to 10:25 a.m.)

12 BY MR. LICHTEN:

13 Q. I just have a couple more questions, Dr. Bard. Were
14 you aware as to whether Brian Hussey's Facebook page had private
15 settings or was open to the public?

16 A. I know that somebody screenshot it and sent it to the
17 NAACP. I'm not aware of the settings, although I think it's
18 addressed in the report.

19 Q. Okay. So as you sit here today, do you know whether
20 he had private settings or public settings?

21 A. I don't know.

22 Q. Okay. And as you sit here today, do you know who
23 screenshotted it?

24 A. Oh, I don't -- I never knew.

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1 Q. Okay. I take it then that no one who worked for the
2 Cambridge Police Department ever complained to you about
3 Hussey's Facebook posts that we're talking about today; is that
4 right?

5 A. I don't recall whether anyone did.

6 Q. Okay. And if no one -- I take it that no one said
7 that they could not work with Hussey or that he had disrupted
8 the work situation at the department because of this post; is
9 that correct?

10 A. I don't know that anyone didn't say that either.

11 Q. But you don't know that they did; is that right?

12 A. No, I don't know that they did.

13 Q. Okay. But no one complained to you from the entire
14 Cambridge Police Department, civilian or uniformed divisions, no
15 one complained to you about the Facebook post that Hussey did;
16 is that correct?

17 A. No, not that I recall.

18 MR. LICHTEN: okay, that's all I have. Thank you very
19 much, I appreciate it.

20 THE WITNESS: Thank you.

21 MR. LICHTEN: Kate, are you all set?

22 MS. KLEIMOLA: No, I have some questions for Dr.
23 Bard.

24 CROSS-EXAMINATION

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1 BY MS. KLEIMOLA:

2 Q. Okay. Dr. Bard, you talked a little bit about your
3 career history. Can you tell us when you first became a police
4 officer?

5 A. I joined the Philadelphia Police Department on August
6 13th of 1993, and I was employed there for 21 and a half years.

7 Q. And were you a patrol officer, were you a detective
8 part of your career; what were your assignments in the
9 Philadelphia Police Department?

10 A. So I served as a police officer, as a sergeant, as a
11 lieutenant, as a captain, and as an inspector, which is a goofy
12 rank, but it's the military equivalent of lieutenant colonel.

13 Q. And where did you go from the Philadelphia Police
14 Department?

15 A. I left the Philadelphia Police Department after 21 and
16 a half years to serve as the chief of police and director of
17 public safety for the Philadelphia Housing Authority Police
18 Department.

19 Q. And you stayed there until August of 2021 when you
20 came to the Cambridge Police Department?

21 A. Yes.

22 Q. Oh, I'm sorry, August of 2017?

23 A. August of 2017, yes, I'm sorry.

24 Q. Okay. And you left the Cambridge Police Department in

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1 August of 2021?

2 A. Yes.

3 Q. Did you go directly to Johns Hopkins from the
4 Cambridge Police Department?

5 A. Directly, yes. I think there was about a week's break
6 in service, but yes.

7 Q. You were asked about a tweet by a dispatcher
8 referencing someone not wearing a mask and that we're not a
9 Communist country. Can you tell us, are dispatchers employees
10 of the Cambridge Police Department in the City of Cambridge?

11 A. They're not.

12 Q. Which department are they employees of?

13 A. Emergency Communications.

14 Q. And as the commissioner of the police department, did
15 you have any authority over Emergency Communications?

16 A. I did not.

17 Q. Turning back to the post that has been at issue. You
18 described that your concern was that it would tear at the trust
19 that the department had built up in the community, and you were
20 concerned that it disparaged and dehumanized substance abusers.
21 Can you talk about, first, what trust had been built up in the
22 community that you were referring to?

23 A. Yeah, so the department, you know, made great painful
24 strides to build up trust with members of our community by

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1 establishing programs that favored a social justice approach as
2 opposed to your traditional criminal justice approaches. That
3 was evidenced by our safety net collaborative, which was a
4 program aimed to take young individuals who exhibited criminal
5 and/or concerning behavior and put them in contact with
6 wraparound services to help them and their family so that they
7 could have better life outcomes. And, you know, so many other
8 programs. But even Officer Hussey was a member of our Special
9 Investigations Unit which diverted and worked with individuals
10 who suffered from substance use issues.

11 So the department took great strides to be, uh, have a
12 lean towards social justice programs and outcomes as opposed to
13 the traditional, more punitive methods associated with the
14 criminal justice system.

15 Q. And why is it important that the community has trust
16 in the Cambridge Police Department?

17 A. Because that's the only way we can function properly
18 and do our job. We have to be seen as trustworthy and
19 legitimate and bias-free. And that post by Officer Hussey,
20 particularly in the context of a post-George Floyd America, it
21 ran a risk of doing irreparable harm to the department's
22 reputation.

23 MS. KLEIMOLA: And I'm just going to pause for one
24 second to make sure Attorney Lichten is still here. You just

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1 went off camera, so.

2 MR. LICHTEN: Yeah, I'm here.

3 MS. KLEIMOLA: Okay. Just making sure we hadn't lost
4 you in some weird Zoom --

5 MR. LICHTEN: I'm here.

6 BY MS. KLEIMOLA:

7 Q. You also talked about in particular the word
8 "druggie." What does the word "druggie" mean in the police
9 community?

10 A. So it's a derogatory term. And for a police officer
11 to use it, you know, it dehumanizes, and it in some ways
12 demonizes. It makes it easier to not to care about the outcomes
13 for an individual. And historically when you dehumanize an
14 individual, then it's easier to perpetrate atrocities against
15 them. So it's inappropriate for a police officer to be using
16 that term.

17 Q. You also mentioned a few minutes ago that Officer
18 Hussey was a member of the SIU, can you tell us what the SIU is?

19 A. So the Special Investigations Unit investigate
20 narcotics trafficking but also provide diversionary methods and
21 other outcomes for other individuals who suffer from substance
22 use issues.

23 Q. Are officers or detectives who are assigned to SIU
24 visible in the public?

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1 A. Very much so.

2 Q. Were they visible in the community of substance users
3 or substance abusers?

4 A. Yes.

5 Q. Was it important for, in particular members of the
6 SIU, to have the trust of that community?

7 A. It certainly was, obviously. And, you know,
8 individuals have to trust you if they're going to refer
9 individuals to you or if they are themselves are going to submit
10 to you. And if individuals believe that you are biased against
11 them for any reason, then they're not going to willingly submit
12 to any type of collaborative effort with you.

13 Q. And then just going back to your meeting that you had
14 with the former city manager and Mo Barbosa and the two members
15 of the NAACP, I believe you said that one of them was Ken
16 Reeves?

17 A. Yes.

18 Q. Can you spell his last name for us, if you know it?

19 A. I think it's R-E-A-V-E-S -- I mean, excuse me, let
20 me say it again, R-E-A-V-E-S, Reaves.

21 Q. And you recall when you were asked about some comments
22 that Mr. Reeves made during that meeting, do you recall any
23 other comments that were made by Mr. Reeves or by either
24 Mr. Harding or Mr. Barbosa during the meeting?

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1 A. Not specifically. As I recall, former Mayor Reeves is
2 very verbose and the way he speaks is, um, is just somewhat
3 different. So I remember it stuck with me that he said that it
4 flies -- it runs afoul, or something, of what we purport to
5 embody, is what stuck with me, the image that we purport to
6 embody, the biased-free image that we purport to embody. His
7 post, meaning Officer Hussey's post ran afoul of that image.

8 Q. And understanding that you don't recall specifics of
9 what Mr. Harding or what Mr. Barbosa said, do you recall whether
10 or not they expressed any concerns about the post?

11 A. Oh, they -- just, you know, the mere fact they're
12 reaching out to me about needing to speak about an urgent
13 matter, and then having the meeting with me, they were very
14 alarmed and concerned about the post.

15 Q. Was Officer Hussey well known in the Cambridge
16 community as a police officer?

17 A. I lost part of your question.

18 Q. Was Officer Hussey well known in the Cambridge
19 community as a police officer?

20 A. He was.

21 MS. KLEIMOLA: If I could just have one moment.

22 [Pause.]

23 Thank you, I don't have anything else.

24 MR. WEBSTER: Just, could we go off the record, just

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1 give us a minute.

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2 (whereupon, the record was paused from 10:37 a.m. to 10:38 a.m.)

3 MR. WEBSTER: That's all for Plaintiff. Thanks, Dr.
4 Bard.

5 THE WITNESS: Thank you.

6 MS. KLEIMOLA: Thank you.

7 (whereupon, the deposition concluded at 10:38 a.m.)

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1 ERRATA SHEET DISTRIBUTION INFORMATION
2 DEPONENT'S ERRATA & SIGNATURE INSTRUCTIONS
3

4 ERRATA SHEET DISTRIBUTION INFORMATION
5

6 The original of the Errata Sheet has been delivered to
7 Kate Kleimola, Esquire.

8 When the Errata Sheet has been completed by the
9 deponent and signed, a copy thereof should be delivered to each
10 party of record and the ORIGINAL forwarded to Harold Lichten,
11 Esquire, to whom the original deposition transcript was
12 delivered.

13 INSTRUCTIONS TO DEPONENT
14

15 After reading this volume of your deposition, please
16 indicate any corrections or changes to your testimony and the
17 reasons therefor on the Errata Sheet supplied to you and sign
18 it. DO NOT make marks or notations on the transcript volume
19 itself. Add additional sheets if necessary. Please refer to
20 the above instructions for Errata Sheet distribution
21 information.

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1 PLEASE ATTACH TO THE DEPOSITION OF: Dr. Branville Bard

2 CASE: Brian Hussey v. City of Cambridge, et al.

3 DATE TAKEN: February 7th, 2023

4 ERRATA SHEET

5 Please refer to Page 51 for Errata Sheet instructions and
6 distribution instructions.

7 PAGE LINE CHANGE REASON

8 _____

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13 _____

14 _____

15 _____

16 I have read the foregoing transcript of my deposition, and
17 except for any corrections or changes noted above, I hereby
18 subscribe to the transcript as an accurate record of the
19 statements made by me.

20 Executed this _____ day of _____, 2023.

21 _____
22 _____
23 _____
24 Dr. Branville Bard

Brian Hussey vs
City of Cambridge, et al.

Branville Bard
February 07, 2023

53

1 COMMONWEALTH OF MASSACHUSETTS

HAMPSHIRE, ss.

2

3 I, KELLEY K. BOHAN, a Court Reporter and Notary Public duly
4 commissioned and qualified in and for the Commonwealth of
5 Massachusetts, do hereby certify that there came before me on
6 the 7th day of February, 2023, at 9:15 a.m., the person
7 hereinbefore named, identification as prescribed by Executive
8 Order 455 (03-13) issued by the Governor of the Commonwealth of
9 Massachusetts, was by me duly sworn to testify to the truth and
10 nothing but the truth of his knowledge concerning the matters in
11 controversy in this cause; that he was thereupon examined upon
12 his oath, and his examination reduced to typewriting under my
13 direction; and that this is a true record of the testimony given
14 by the witness to the best of my ability.

15 I further certify that I am neither attorney or counsel
16 for, nor related to or employed by, any of the parties to the
17 action in which this deposition is taken, and further, that I am
18 not a relative or employee of any attorney or counsel employed
19 by the parties hereto or financially interested in the action.

20

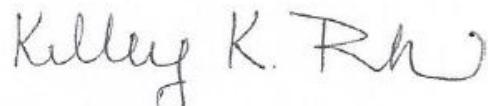
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My Commission Expires: December 25, 2026



Kelley K. Bohan
Court Reporter/Notary Public

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EXHIBIT 4



Jenn Mac	Timothy Smith	Nicole McLaughlin
Elmas Que Jode ✓	Jeannette DiPietro	Ameer Moustafa
Tricia Sylva	Frank Greenidge ✓	Lisa Lima-Soares
Brian Blackie Black	Robert Cooper	Kristie Harvey Wagner
Lindsay DiGiovanni Hussey	Charlie McNeill Jr. ✓	Natalie Rodriguez
Pamela DiGiovanni Ferrara	John Henry	Raphael Ordinola
Shauna Diggins	Jeff Freedman	Deborah Martin
Michele Firicano Maier	Kevin Michael	Aprille LaVoie
Larry Stead ✓	Margaret Gentile	Jessie Acevedo Soto
Michael Martins	Jason Beek	Charlene Donofrio-Skelly
Kevin O'Connor	Christopher Fielding	John Collins
Chris Ciampa	Frederick Hart	Dan Moore
Melanie Santa	Danny Mac ✓	Susan Koutalakis
Larry Clarke ✓	Sandra DeBrito	Susana Quelha Santos
Gus Desousa	Pattie Segalla Mercier ✗	Kelly Flynn Unger
Phil Tammaro	Michelle Brown	Monica Ferreira Azevedo
Kevin McManus	Michael Halley	Stephanie Medeiros-Pomeroy
Tim O'Brien ✓	Christine Frazier Halley	Garrett Tingle
Michael Medeiros ✓	Mary Abigail Washington ✓	Lisa Podesta Coombs
Ryan Matthew	Saki Manias ✗	Stephen Raneri
Julia Pilleri	Patrick Grogan	Daniel Wagner ✓
Colin Walsh	Steven Magalhaes ✓	Ryan McCusker
Peg Dwyer	Jay Charles	Michelle Maranta
Lisa Cardinale Scimemi	D. Julia Sullivan DeLuca	J Rod
Justine Bavaro	Mark Ford	Jennifer Mochi Chernisky
Daniel Patrick Burroso ✓	Eric Helberg ✓	Jamie Michele
Steve Geary	Kathy Tink Murphy ✓	Casimir Maziarz ✓
Jason McMaster ✗	Ed Costa Jr. ✓	Radu Brestyan
Dawn Spellman	Christine Prendergrast	Beth Krudys

Robert Doherty ✓	Christine Savioli O'Connor	Dayna Martin
Ann Twofoursix ✓	Dave Norton	Ronnie Ferrara
Michelle Griffin	Ben Brown	Paul Jay ✓
Julie E. Ray	Brenda L. Gilchrist	Lauren Chhor
Angela Harotunian ✗	Brian Levins ✓	Joseph Wilson III ✓
Bob Ahern	Matt Kelly	Fred Fantini
James Greene ✓	Renee Daniliuk	Fatima Ferreira ✗
Lorraine Centola	Donald Bombino ✓	Nicky Fabz
TeeMomma Frangos	Carl Jones ✓	Stuart Grifkin
Chuck Mottola ✓	Katie McDaid	Rick Daily ✓
John Corcoran	JB Bellisimo ✓	Mike CE
Ricky Pedrini	Bobby Pasco ✓	Jason Foti
Kelly Bombino ✓	Sheila Gendrolius	Peter Bacci
Thomas Edward	Cliff Harsh	Bob Pacheco
Paul Tavares	Melissa Savioli	Shannon Shannon
Kelley King Folger ✓	Dennis O'Connor ✓	Allison Bonvie
Matthew John ✓	David Porter ✓	Mickey McPhee ✗
Christine Donofrio	Megan Kathleen	Michele R. McPhee ✗
Maureen Flavin	Anna Walsh	Tony Bongiorno ✓
Steve Wenzel ✓	Clifford Harsh	Kate Brooks
Kevin E Youkilis ✗	Lester Sullivan ✓	Bobby Pacheco
Neal Mullan Jr.	Matt Wescott	Richard Moschner
Jenn Teng Batchelder ✗	John Sofis Scheft	Dee Michelle
Ashley Kmiec ✓	Brian Corcoran	Al Maier
Moreen Heath Caliri	Stephen Ahern ✓	David Smith
Tom Fagan	Joseph Cozza ✓	Michelle Dam
Tee Cano	Dan Rea ✗	Lola DiGiovanni
Andrew Topouzoglou ✓	Stephen Fiveohone ✓	Linda Boschetti ✗
Ryan Ference	Danny Geddes	Micky Ward ✗

Brian OConnor ✓	Jenn Martignetti	Elaine Marchant
Stephen Lyons ✓	C. A. Shay	Angela Hirtle-Falzarano ✗
Marybeth Ray	Lyssa Santolucito	Lisa DeFeudis
Melissa Cunha	Mike Savitkas	Joe Delaney
Lenny DiPietro ✓	Katie Shea	Lisa McCullough
Nicole Bernier	Joanna Duffy	Michael P. Mahon ✗
Greg Scapicchio	Michelle Shields	Shawn Dolan
Kenny Talent	Lindsay Carroll	Delise Sciacca
Jackie Peterson	EL DA	Lee Anderson Schwartz
Adam Gentile	Linda Dwyer Baer	Alison Smith
Michael Wilton ✗	Jan Etlo Pez	Mark Doherty
Dennis Martin	Ric Deignan	Patricia Sheets
Ella Fue	Brian Mushlin ✓	Christie Blake
David Han	Gypsy Melanie	Mark McCabe
Chhaya Kem	Michael Dwyer	Stephen Burke
Dave Szeto ✓	Jason Dust	Garry L. Rizzuto
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Gina Reitano Torcasio ✗	Kevin Drinan	Lucas Carr
Tim Warner	Lisa Marie DeLisle Rizzuto	Tony Schwartz ✓
Kara A. Grant	Chyna Onembo	Jim Georgakis ✗
Taylor Marie	Pauline Wells ✓	Mark Pacheco
Jennie Hannah ✗	Daniella Grico	joe Gittelman
Alyson Gould	Chuck Ciccarello	Lou Neal ✓
Marc DesRoches	Joy Carter King	Christine O'Connor
Stephanie Marlar	Krstn Mchd	Budahisang Comsukits
Kimberly Splaine Moran	Lisa Sullivan	Feedl Nitro
Patrick Haggerty	April Lynne	Serenity Allen
Nikki Medeiros	Brenda Hagen Gonzalez	Robert Mullis
David Allen	Pete Loran ✗	Barry Ward

Mit Norton	Mark Donovan ✓	Heather Picking
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Kristen Cokely ✓	Mary Gentile	Brenda Burke ✓
John Boyle ✓	Doreen Giles McCaul	Jerry Kantor ✓
Miranda Pelletier Campbell	Justin Brennan	Chantal Leavitt
Connie Tammaro	Jesse Cody	Teresa Licciardi Rinaldi
Steven Szathmary	Laura Murphy	Jodi Indorato
Johnny Solinger ✗	Emily Bonacci	Scott Gould
Vicky Zambi Vivenzio	Jack Crowley ✓	Becky Joy
Matthew Gentile	Jaimelyn Harsh	Catherine McCarthy ✓
Renee Kelley	Shannon Giffin	Mike Pelletrino
Brian Duffy	Brian Kelley	Kelly Wright
Paul Gargano ✗	Christina Foley	Jim Crowley ✓
Philip Trainor	Amanda Jean	Michael Miceli ✓
Laurie Schneider	Jeff Blando ✗	Paul McDonough
Betsy Vicente	Tom Fleming	Michael Alpers ✓
Oswaldo R. Ortiz ✓	Tom Flynn ✓	Angie DiPrizio D'Amore
Mary Ehler Davenport	Linda Dove Mochi	Courtney Proch
Terry Sullivan	Dorothy Nardone	Jason DaSilva
John Lopes ✓	Ry Cal ✓	So Sasigant O'Neil
Katelynne Cambria	Pho Scho	Dave Fimiani ✓
Patrick Munroe	Lana Mills	Devon Abbott
Maggie Nora	Susan Goforth Gentile	jay Monty
Marc Orrell	Erica Lynne	Matt Vaitiskis
Rich Martins	Danny Marshall ✓	Illiana Maria Hinds
Stacey Lewicki-Mota	Blanta Claus	Pj Zag
Noel Camilio	Mark Zepf	Erin Ciccone

Mikey Adams	Kim Smith	Audrick Mayers
X		
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Shawn Flores	Heather Rourke	Emmanuel Felina
Belladonna Beekeeper	Kevin Mitrano	Jessica Domaingue
Pamela Morris	Kevin Cavanagh	Gabrielle Tammaro
Garrett Warren	Nicole Tammaro	Matt Fraumeni
Nicole Costa Moustafa	Teruo Takahashi	Alexis Sullivan
Jennifer Fontaine	Carey Kaprelian	Deb Bercovitch
Balele H. Shoka	Sara Mascroft	Nicole Walsh
Nadine Francis-Silva	Julie O'Hanlon	Stephanie Lyons
Matt Shea	Rajah Hockley	Gianna Passa
Al M Trigs	Robert Doc Welby	Jaclyn Burke DaSilva
Katerina Kupkova Lima	Chris M. Pon-e ✓	Sam Black X
Jessica Marte	Rachel Baptista	Kirk Wornum
Danielle Murr	Nick Mochi ✓	Nelia Claudino Braga
Peter Krudys	Erica Jean	Jennifer Carney Wallace
Jane Erickson	Devon G. Brooks✓	Taylor Rossano
X		
Alex DiPietro	Angela Alexopoulos	Cheryl Bondi
Olivia Mahoney	Sheila Colon	Frank Bacci
Mikey Splaine	Maribeth Sgroi	OC Bluth ✓
Brian Joyce	Dan Crowley	Taylor Burns
Nicole VanHorn	Mai Tai	Jeff Nelson
X		
Megan Rebecca	Liliana Hedrick	Christina Morrissey Cotter
Tim Decker	Deb Gaffney	Kelly Ann
Brendan Pasco ✓	Tammie Lavallee	Grant F. Casassa
Leigh Schneider	Jennifer Pitts	Kevin James
Michael Carter ✓	JJ Sutherland	Tim Burton
Fil DaSilva	Cheryle St Armand-Lombardo	Katie Masse ✓
Dan Grady	Rachel Kate	Marc Nicoletti

Audrey Zaremba Drinan	Lee Vieira ✓	Mike LeVecque ✓
Brian Matthew ✓	Vanessa R. Wanderlingh	Caitlyn Marie
Joy Bruno	Jen Baum	Sharon Cloran Dineen
Doug Briosco	Frederick Leung✓	Kimberline Marie
Laura Jean Reardon	Kr Rabs	Merry Fay Baldwin
Mike Mike	Peter Anthony✓	Graham Morrison
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Carol Ann	Amy Kelley	Marcy Newhall
Bobby Travers	Jason P. McManus	Rebecca Salvatore
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Jennifer Maria	Nicole Fredericks	Nicole Erwin
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Paul Burke ✓	Leah Fraumeni	Taylor Janedy Medeiros
Les Sullivan ✓	Frank Lange ✓	Danny O'Brien
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Rebecca Buxbaum	Brian Peterson	Lisa Dorsey DiFava
Lisa Pacheco	jasa Onembo	Lindsay Burgess

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Alicia Tribble Warner

Erica Cifarelli McDavitt

Missy Rothman Ahern

Caitlin Bisceglia

Melissa Fiske

Ceara Mahoney

Diana Kardashian

Danielle Liddell

Kristina Tamirova

Rob Ciriello ✓

John Thomas

Jeff Boosh

EXHIBIT 5

Chapter 43: **Section 103.** The city council shall appoint a city manager who shall be sworn to the faithful performance of his duties and who shall be the chief administrative officer of the city and shall be responsible for the administration of all departments, commissions, boards and officers of the city, whether established before its adoption of this plan or thereafter, except that of the city clerk, city auditor, any official appointed by the governor or any body elected by the voters of the city. He shall be appointed on the basis of his administrative and executive qualifications only, and need not be a resident of the city or commonwealth when appointed. He shall hold office during the pleasure of the city council and shall receive such compensation as it shall fix by ordinance. No member of the city council shall during his term of office be chosen as city manager, and no person who has within two years been elected to or served in any elective office in the city or in the county in which the city is located shall be chosen as city manager.

Before the city manager may be removed, if he so demand, he shall be given a written statement of the reasons alleged for his removal and shall have the right to be heard publicly thereon at a meeting of the city council prior to the final vote on the question of his removal, but pending and during such hearing the city council may suspend him from office. The action of the city council in suspending or removing the city manager shall be final, it being the intention of this provision to vest all authority and fix all responsibility for such suspension or removal in the city council. In case of the absence, disability or suspension of the city manager, the city council shall designate the head of some department to perform the duties of city manager during such absence, disability or suspension, and, in case the office of city manager becomes vacant, the city council shall designate the head of some department to serve as acting city manager until a new city manager is appointed.

Chapter 43: **Section 104.** Except as otherwise specifically provided in this chapter, it shall be the duty of the city manager to act as chief conservator of the peace within the city; to supervise the administration of the affairs of the city; to see that within the city the laws of the commonwealth and the ordinances, resolutions and regulations of the city council are faithfully executed; and to make such recommendations to the city council concerning the affairs of the city as may to him seem desirable; to make reports to the city council from time to time upon the affairs of the city; and to keep the city council fully advised of the city's financial condition and its future needs. He shall prepare and submit to the city council budgets as required of the mayor by section thirty-two of chapter forty-four and, in connection therewith, may, to the extent provided by said section thirty-two in the case of a mayor, require the submission to him, by all departments, commissions, boards and offices of the city, of estimates of the amounts necessary for their expenses. He shall make all appointments and removals in the departments, commissions, boards and offices of the city for whose administration he is responsible, except as otherwise provided in this chapter, and shall perform such other duties as may be prescribed by this chapter or be required of him by ordinance or resolution of the city council. The city manager shall have and possess, and shall exercise, all the powers, rights and duties, other than legislative, had, possessed or exercised, immediately prior to the adoption of this plan, by the mayor, board of aldermen, common council and all other boards, commissions and committees of the city and their members, severally or collectively, except such as are by this chapter conferred upon the school committee or are otherwise provided for thereby.